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# *The* **NORTH CAROLINA REGISTER**

**IN THIS ISSUE.....**

**EXECUTIVE ORDERS**

**FINAL DECISION LETTERS**

**PROPOSED RULES**

Commerce

Crime Control and Public Safety

Human Resources

Insurance

Licensing Boards

NRCD

**FINAL RULES**

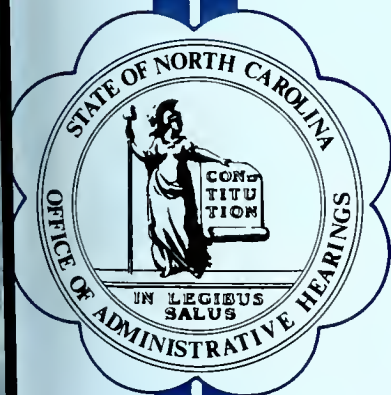
Revenue

Transportation

**LIST OF RULES AFFECTED**

**ISSUE DATE: DECEMBER 15, 1987**

**Volume 2 • Issue 9 • Pages 545-643**



# INFORMATION ABOUT THE NORTH CAROLINA REGISTER AND ADMINISTRATIVE CODE

## NORTH CAROLINA REGISTER

The *North Carolina Register* is published monthly and contains information relating to agency, executive, legislative and judicial actions required by or affecting Chapter 150B of the General Statutes. All proposed, administrative rules and amendments filed under Chapter 150B must be published in the Register. The Register will typically comprise approximately one hundred pages per issue of legal text.

State law requires that a copy of each issue be provided free of charge to each county in the state and to various state officials and institutions. The *North Carolina Register* is available by yearly subscription at a cost of ninety-five dollars (\$95.00) for 12 issues.

Requests for subscriptions to the *North Carolina Register* should be directed to the Office of Administrative Hearings, P. O. Drawer 11666, Raleigh, N. C. 27604, Attn: *Subscriptions*.

## ADOPTION, AMENDMENT, AND REPEAL OF RULES

An agency intending to adopt, amend, or repeal a rule must first publish notice of the proposed action in the *North Carolina Register*. The notice must include the time and place of the public hearing; a statement of how public comments may be submitted to the agency either at the hearing or otherwise; the text of the proposed rule or amendment; a reference to the Statutory Authority for the action and the proposed effective date.

The Director of the Office of Administrative Hearings has authority to publish a summary, rather than the full text, of any amendment which is considered to be too lengthy. In such case, the full text of the rule containing the proposed amendment will be available for public inspection at the Rules Division of the Office of Administrative Hearings and at the office of the promulgating agency.

Unless a specific statute provides otherwise, at least 30 days must elapse following publication of the proposal in the *North Carolina Register* before the agency may conduct the required public hearing and take action on the proposed adoption, amendment or repeal.

When final action is taken, the promulgating agency must file any adopted or amended rule for approval by the Administrative Rules Review Commission. Upon approval of ARRC, the adopted or amended rule must be filed with the Office of Administrative Hearings. If it differs substantially from the proposed form published as part of the public notice, upon request by the agency, the adopted version will again be published in the *North Carolina Register*.

A rule, or amended rule cannot become effective earlier than the first day of the second calendar month after the adoption is filed with the Office of Administrative Hearings for publication in the NCAC.

Proposed action on rules may be withdrawn by the promulgating agency at any time before final action is taken by the agency.

## TEMPORARY RULES

Under certain conditions of an emergency nature, some agencies may issue temporary rules. A temporary rule becomes effective when adopted and remains in

effect for the period specified in the rule or 180 days whichever is less. An agency adopting a temporary rule must begin normal rule-making procedures on the permanent rule at the same time the temporary rule is adopted.

## NORTH CAROLINA ADMINISTRATIVE CODE

The North Carolina Administrative Code (NCAC) is a compilation and index of the administrative rules of 25 state agencies and 38 occupational licensing boards. The NCAC comprises approximately 15,000 letter size single spaced pages of material of which approximately 35% is changed annually. Compilation and publication of the NCAC is mandated by G.S. 150B-63(b).

The Code is divided into Titles and Chapters. Each state agency is assigned a separate title which is further broken down by chapters. Title 21 is designated for occupational licensing boards.

The NCAC is available in two formats.

- (1) Single pages may be obtained at a minimum cost of two dollars and 50 cents (\$2.50) for 1 page or less, plus fifteen cents (\$0.15) per each additional page.
- (2) The full publication consists of 52 volumes totaling in excess of 15,000 pages. It is supplemented monthly with replacement pages. A one year subscription to the full publication including supplements can be purchased for seven hundred and fifty dollars (\$750.00). Individual volumes may also be purchased with supplement service. Renewal subscriptions for supplements to the initial publication available.

Requests for pages of rules or volumes of the NCAC should be directed to the Office of Administrative Hearings.

## NOTE

The foregoing is a generalized statement of the procedures to be followed. For specific statutory language it is suggested that Articles 2 and 5 of Chapter 150B of the General Statutes be examined carefully.

## CITATION TO THE NORTH CAROLINA REGISTER

The *North Carolina Register* is cited by volume, issue number and date. **1:1 NCR 101-201, April 1, 1986** refers to Volume 1, Issue 1, pages 101 through 201 of the *North Carolina Register* issued on April 1, 1986.

**North Carolina Register.** Published monthly by the Office of Administrative Hearings, P.O. Drawer 11666, Raleigh, North Carolina 27604, pursuant to Chapter 150B of the General Statutes. Subscriptions ninety-five dollars (\$95.00) per year.

**North Carolina Administrative Code.** Published in looseleaf notebooks with supplement service by the Office of Administrative Hearings, P.O. Drawer 11666, Raleigh, North Carolina 27604, pursuant to Chapter 150B of the General Statutes. Subscriptions seven hundred and fifty dollars (\$750.00). Individual volumes available.

# NORTH CAROLINA REGISTER



*Office of Administrative Hearings*  
P. O. Drawer 11666  
Raleigh, NC 27604  
(919) 733 - 2678

Robert A. Melott,  
*Director*  
James R. Scarcella, Sr.  
*Deputy Director*  
Molly Mason,  
*Assistant Director*

**Staff:**  
Ruby Creech,  
*Publications Coordinator*  
Teresa Johnson,  
*Editorial Assistant*  
Jean Shirley,  
*Editorial Assistant*

## ISSUE CONTENTS

<b>I. EXECUTIVE ORDER</b>	
Executive Order 57 .....	545

<b>II. FINAL DECISION LETTERS</b>	
Voting Rights Act .....	547

<b>III. PROPOSED RULES</b>	
<b>Commerce</b>	
Departmental Rules .....	551
<b>Crime Control and Public Safety</b>	
Governor's Crime Commission .....	565
Victim and Justice Services Division .....	570
<b>Human Resources</b>	
Mental Health, Mental Retardation and Substance Abuse .....	557
Vocational Rehabilitation Services .....	559
<b>Insurance</b>	
Special Services Division .....	564
<b>Licensing Boards</b>	
Cosmetic Art Examiners .....	593
Electrical Contractor Examiners .....	612
Medical Examiners .....	613
Nursing, Board of .....	627
<b>NRCD</b>	
Coastal Management .....	573
Environmental Management .....	572
Wildlife Resources and Water Safety .....	575

<b>IV. FINAL RULES</b>	
<b>Revenue</b>	
Corporate Income and Franchise Tax .....	632
<b>Transportation</b>	
Division of Motor Vehicles .....	632

<b>V. LIST OF RULES AFFECTED</b>	
December 1, 1987 .....	634

<b>VI. CUMULATIVE INDEX</b> .....	640
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**NORTH CAROLINA REGISTER**  
*Publication Deadlines and Schedules*  
*(January 1988 - March 1989)*

Issue Date	Last Day for Filing	Last Day for Electronic Filing	Earliest Date for Public Hearing & Adoption by Agency	* Earliest Effective Date
*****	*****	*****	*****	*****
01/15/88	12/28/87	01/04/88	02/14/88	05/01/88
02/15/88	01/26/88	02/02/88	03/16/88	06/01/88
03/15/88	02/24/88	03/02/88	04/14/88	07/01/88
04/15/88	04/25/88	04/01/88	05/15/88	08/01/88
05/16/88	04/27/88	05/03/88	06/15/88	09/01/88
06/15/88	05/26/88	06/02/88	07/15/88	10/01/88
07/15/88	06/24/88	07/01/88	08/14/88	11/01/88
08/15/88	07/26/88	08/02/88	09/14/88	12/01/88
09/15/88	08/26/88	09/02/88	10/15/88	01/01/89
10/14/88	09/26/88	10/03/88	11/13/88	02/01/89
11/15/88	10/26/88	11/02/88	12/15/88	03/01/89
12/15/88	11/23/88	12/02/88	01/14/89	04/01/89
01/16/89	12/27/88	01/03/89	02/15/89	05/01/89
02/15/89	01/26/89	02/02/89	03/17/89	06/01/89
03/15/89	02/21/89	03/02/89	04/14/89	07/01/89

\* The "Earliest Effective Date" is computed assuming that the public hearing and adoption occur in the calendar month immediately following the "Issue Date", that the agency files the rule with The Administrative Rules Review Commission by the 20th of the same calendar month and that ARRC approves the rule at the next calendar month meeting.



EXECUTIVE ORDER NUMBER 57

GOVERNOR'S BLUE RIBBON COMMISSION  
ON COASTAL INITIATIVES

North Carolina's coastal sounds and waterways represent unique and invaluable natural resources for all the people of North Carolina.

The use and preservation of these resources is especially important to those recreational boaters, sports fishermen and vacationers who utilize our coastal areas.

In order to protect these natural resources, provide for the orderly growth of marine related activity, and promote environmentally sound economic development along our coast, it is essential that North Carolina develop and implement a Coastal Initiatives Plan. This plan should work to enhance the quality of our coastal environment by clustering marine related development in carefully selected locations while other more ecologically sensitive areas are given increased environmental protection.

Therefore, by the authority vested in me as Governor by the Constitution and laws of North Carolina, IT IS ORDERED:

Section 1 ESTABLISHMENT

There is hereby established the Governor's Blue Ribbon Commission on Coastal Initiatives.

Section 2 MEMBERSHIP

The Commission shall be composed of not less than 10 members appointed by the Governor. The membership shall include the Secretaries of:

- a. Department of Natural Resources and Community Development;
- b. Department of Commerce;
- c. Department of Administration;
- d. Department of Transportation;
- e. Department of Human Resources.

In addition to those representatives set forth above, the Commission shall include representatives from interested environmental groups, local governments and marine activity related businesses.

The Governor shall designate the chairman of the Commission and all members shall serve at the pleasure of the Governor. All vacancies shall be filled by the Governor.

Section 3 MEETINGS

The Commission shall meet at such times and at such locations as directed by the Chairman.

Section 4 DUTIES

(i) It shall be the responsibility of the Commission to develop and implement a long-term, environmentally sound plan to provide additional protection for environmentally sensitive areas in the 20 coastal counties and to encourage and facilitate clustered development in selected local communities seeking to improve shoreline and marine activity related development.

Recommendations and areas of program implementation in the plan shall include, but not be limited to:

- protective measures for marine and coastal resources;
- navigation aids, including a waterways system plan;
- incentives to support local community shore line or marine activity related economic development.

(ii) The Commission shall have the authority to direct the work of the Administrative Working Group established in Section 5 of this order.

Section 5 ESTABLISHMENT OF  
ADMINISTRATIVE WORKING GROUP

There is created as an adjunct to the Commission an Administrative Working Group (AWG) which shall be composed of representatives from the various State departments and agencies involved in planning and implementing the Coastal Initiatives Plan.

All members of the Administrative Working Group shall be designated by the Governor.

The Governor shall designate the chairman of the Administrative Working Group. The AWG shall meet at the call of either its Chairman or the Chairman of the Commission.

Section 6 DUTIES OF AWG

The Administrative Working Group shall, at the direction of the Commission, prepare the plans called for in Section 4 of this order for approval by the Commission. After such approval, the Administrative Working Group shall work to implement the plan as directed by the Commission. The Administrative Working Group will work to coordinate efforts among all involved State departments to ensure the successful completion of the Commission's plan.

Section 7 COMMUNITY TEAMS

In carrying out its duties the Administrative Working Group shall have authority to designate interdepartmental community teams composed of State and other governmental agency representatives. These teams shall work at the community level to assist the AWG in the

development and implementation of the Commission's plan.

These teams shall report to and work at the direction of the Administrative Working Group.

**Section 8 ADMINISTRATIVE SUPPORT AND EXPENSES**

The Department of Natural Resources and Community Development shall provide necessary staffing and administrative support for the Commission and the Administrative Working Group. Other State departments and agencies shall assist the Commission and Administrative Working Group in this undertaking by rendering such technical advice and assistance to them as is from time to time requested and by cooperating fully in the implementation of the approved Coastal Initiatives Plan.

Members of the Commission shall be entitled to such per diem expenses and reimbursement for travel expenses as authorized under N.C.G.S. 138-5. Members who are State employees shall be reimbursed as authorized by N.C.G.S. 138-6.

Funds for reimbursement of these and other administrative expenses of the Commission shall be made available from funds provided by the Department of Administrative, Department of Transportation, and the Department of Natural Resources and Community Development as authorized and directed by the Office of Management and Budget.

**Section 9 EFFECTIVE DATE**

This order shall be effective immediately, and shall remain effective until December 31, 1992.

Done in Raleigh, North Carolina this the 23rd day of November, 1987.

## VOTING RIGHTS ACT FINAL DECISION LETTERS

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*[G.S. 120-30.9H, effective July 16, 1986, requires that all letters and other documents issued by the Attorney General of the United States in which a final decision is made concerning a "change affecting voting" under Section 5 of the Voting Rights Act of 1965 be published in the North Carolina Register.]*

U.S. Department of Justice  
Civil Rights Division  
Washington, D.C. 20530

WBR:SSC:CCS:dvs  
DJ 166-012-3  
S6727

Voting Section  
P.O. Box 66128  
Washington, D.C. 20035-6128

November 2, 1987

Michael Crowell, Esq.  
Tharrington, Smith & Hargrove  
P.O. Box 1151  
Raleigh, North Carolina 27602

Dear Mr. Crowell:

This refers to the procedures for conducting the December 8, 1987, special election for the Town of Enfield in Halifax County, North Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c. We received your initial submission on September 1, 1987; supplemental information was received on September 14 and 15, 1987. Although we noted your request for expedited consideration, we are unable to respond until now.

The Attorney General does not interpose any objection to the change in question. However, we feel a responsibility to point out that Section 5 of the Voting Rights Act expressly provides that the failure of the Attorney General to object does not bar any subsequent judicial action to enjoin the enforcement of such change. See Section 51.41 of the Procedures for the Administration of Section 5 [52 Fed. Reg. 496 (1987)].

Sincerely,

Wm. Bradford Reynolds  
Assistant Attorney General  
Civil Rights Division

By:

Gerald W. Jones  
Chief, Voting Section

U.S. Department of Justice  
Washington, D.C. 20530

WBR:SSC:KIF:gmh  
DJ 166-012-3  
S6284

November 12, 1987

Robert C. Cogswell, Jr., Esq.  
City Attorney  
P. O. Box 1513  
Fayetteville, North Carolina 28302-1513

Dear Mr. Cogswell:

This refers to the increase in compensation for council members for the City of Fayetteville in Cumberland County, North Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c. We received your submission on September 14, 1987.

The Attorney General does not interpose any objection to the change in question. However, we feel a responsibility to point out that Section 5 of the Voting Rights Act expressly provides that the failure of the Attorney General to object does not bar any subsequent judicial action to enjoin the enforcement of such change. See Section 51.41 of the Procedures for the Administration of Section 5 [52 Fed. Reg. 496 (1987)].

Sincerely,

Wm. Bradford Reynolds  
Assistant Attorney General  
Civil Rights Division

By:

Gerald W. Jones  
Chief, Voting Section



U.S. Department of Justice  
Washington, D.C. 20530

WBR:MAP:ST:gmh  
DJ 166-012-3  
S5145-5146  
S6672

November 6, 1987

Jesse L. Warren, Esq.  
City Attorney  
Drawer W-2  
Greensboro, North Carolina 27402

Dear Mr. Warren:

This refers to the August 3 and September 8, 1987, annexations to the City of Greensboro in Guilford County, North Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c. We received your submissions on August 18 and September 24, 1987.

The Attorney General does not interpose any objections to the changes in question. However, we feel a responsibility to point out that Section 5 of the Voting Rights Act expressly provides that the failure of the Attorney General to object does not bar any subsequent judicial action to enjoin the enforcement of such changes. In addition, as authorized by Section 5, the Attorney General reserves the right to reexamine this submission if additional information that would otherwise require an objection comes to his attention during the remainder of the sixty-day review period. See Sections 51.41 and 51.43 of the Procedures for the Administration of Section 5 [52 Fed. Reg. 496 (1987)].

Sincerely,

Wm. Bradford Reynolds  
Assistant Attorney General  
Civil Rights Division

By:

Gerald W. Jones  
Chief, Voting Section

*VOTING RIGHTS ACT FINAL DECISION LETTERS*

---

U.S. Department of Justice  
Civil Rights Division

WBR:SSC:ST:gmh  
DJ 166-012-3  
S5145-5146  
S6672

Voting Section  
P.O. Box 66128  
Washington, D.C. 20035-6128

October 19, 1987

Jesse L. Warren, Esq.  
City Attorney  
Drawer W-2  
Greensboro, North Carolina 27402

Dear Mr. Warren:

This refers to the two annexations adopted August 3, 1987, to the City of Greensboro in Guilford County, North Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c. We received your submission on August 18, 1987.

On September 24, 1987, we received an additional annexation to the city. Since these changes are directly related and must be reviewed simultaneously, the sixty-day review period for all changes now before us will expire on November 23, 1987. Accordingly, by that date we will either make a final determination on these changes or request from you any specific items of additional information necessary to make a proper determination under Section 5. See Section 51.22(b) of the Procedures for the Administration of Section 5 [52 Fed. Reg. 493 (1987)].

Sincerely,

Wm. Bradford Reynolds  
Assistant Attorney General  
Civil Rights Division

By:

Gerald W. Jones  
Chief, Voting Section

**TITLE 4 - DEPARTMENT OF  
COMMERCE**

*Notice is hereby given in accordance with G.S. 150B-12 that the N.C. Department of Commerce intends to adopt regulations cited as 4 NCAC 11 .0101 - .0102; .0201 - .0202; .0301 - .0302; .0401 - .0404; .0501 - .0503; .0601; 1J .0101 - .0102; .0201; .0301.*

*The proposed effective date of this action is February 1, 1988.*

*The public hearing will be conducted at the following locations, times and dates:*

*Room 14  
Martin Community College  
Williamston, NC  
January 19, 1988 at 1:00 p.m.*

*Bladen County Library  
Elizabethtown, NC  
January 20, 1988 at 1:00 p.m.*

*Simpson Administration Building  
Lecture Hall  
Asheville Biltmore Technical College  
340 Victoria Road  
Asheville, NC  
January 26, 1988 at 1:00 p.m.*

*Conference Hearing Room 6168  
Dobbs Building  
430 North Salisbury Street  
Raleigh, NC  
January 27, 1988 at 1:00 p.m.*

*Comment Procedures: Written statements not presented at the hearings should be directed before January 15, 1988 to:*

*Mr. William A. Dunn  
Deputy Secretary  
North Carolina Department of Commerce  
430 North Salisbury Street  
Raleigh, NC 27611*

*A copy of the proposed adoption in the regulations is available for public inspection or may be obtained at the following address:*

*Commerce Finance Center  
North Carolina Department of Commerce  
Suite 2019, Dobbs Building  
430 North Salisbury Street  
Raleigh, NC 27611.*

**CHAPTER 1 - DEPARTMENTAL RULES**

**SUBCHAPTER 11 - INDUSTRIAL BUILDING  
AND RENOVATION FUND**

**SECTION .0100 - PURPOSE AND  
DEFINITIONS**

**.0101 BACKGROUND AND OBJECTIVES**

(a) The purpose of the North Carolina Industrial Development Fund (also to be known as the Industrial Building and Renovation Fund) is to assist local city or county governments located in the most economically depressed counties in the state. This assistance will be intended to help those units of government create new jobs by providing financing for the renovation or improvement and expansion of manufacturing or industrial buildings so as to induce "private profit making" entities to occupy, by lease or purchase, and to operate manufacturing or industrial businesses.

(b) The objective of this program will be to provide new full time jobs for North Carolina citizens. The department will necessarily determine that the renovations and improvements are a necessary part of the private firms decision to provide the new jobs. If it is determined that the private firm would have (or has already begun to) spend private money to make these renovations and create these jobs, no funds from this program will be expended.

*Statutory Authority Section 111 of Part XXII Chapter 830, 1987 Session Laws.*

**.0102 DEFINITIONS**

(a) "Act" means Section 111 Part XXII of the consolidated budget act codified as Chapter 830 of the 1987 Session Laws.

(b) "Applicant" means a unit of city government located in a qualified county or a unit of county government which meets the definition of a qualified county.

(c) "Industrial Development Fund" means the appropriation of monies given to the Department of Commerce for these purposes. This fund will also be known as and referred to as the Industrial Building Renovation and Improvement Fund.

(d) "Qualified County" means one of the 50 most economically depressed counties with the lowest median per capita income, as compared to the 50 least economically depressed counties with the highest median per capita income. The median per capita income figures used in making this comparison and the delineation of "most" and "least" will be the latest available per capita income figures, by county, as

documented in a published form by any State or Federal Agency generally recognized as having expertise and creditability in this field.

(e) "Project" means one or more activities proposed for funding, or for partial funding, under this Rule. Such a project will be described in a narrative and accompanied by a preliminary set of drawings which set out the exact factual situation and a detailed schedule of costs from a contractor or engineer. The schedule must constitute an ability to complete such project with no more than a ten percent contingency. All such project material will provide evaluations of potential for unusual site characteristics which might influence construction or operating costs.

(1) These renovations or improvements may include:

(A) the construction of, or improvements to existing water, sewer, gas or electrical utility systems, distribution lines, or required storage facilities, and or;

(B) the renovation of buildings to include structural repairs, structural improvements such as roof repair, addition of docks, or the erection of walls or special structural support to support cranes;

(C) improvements to the building necessary to make the building suitable for the occupancy of the building by the occupant and the operator of the project.

Such improvements may include mechanical equipment such as heating or air conditioning equipment, plumbing, pipes or trenching to handle effluents or process water, special electrical additions necessary for ovens, furnaces or other processors and lighting. If a renovation or an improvement is critical to the operation of a particular manufacturing or industrial businesses, or, if such improvements are critical to the decision making process pertinent to the creation of such jobs, the actual improvement need not be located on the site of the industrial building. Still, the application must document the exact relationship of the jobs and the project. An example of fundable project would be the case where a unit of government must construct an elevated water tank and service water lines to a building so as to provide sprinkler water to a building where such service is directly required to operate the industrial or manufacturing business. An example of a unfundable project would be where a unit of government seeks to expand or to repair defi-

ciencies in their total system and where the relationship to the creation of jobs is fairly general or indirect. The project will be described in the perspective of employment to be created in the impact area of the project. Direct and indirect jobs will be treated separately in the discussion. The operator of the project will provide details as to the nature of direct jobs created, including the skills required, work conditions, wages paid and seasonal influences on the number of work days per year.

(f) "Renovation" shall have the same meaning as project, as described above.

(g) "Secretary" means the Secretary of the North Carolina Department of Commerce or his designee.

(h) "State" means the State of North Carolina.

*Statutory Authority Section 111 of Part XXII Chapter 830, 1987 Session Laws.*

## SECTION .0200 - GENERAL REQUIREMENTS

### .0201 DATE FOR RECEIPT OF APPLICATIONS

The Department of Commerce will receive applications after November 15, 1987 on a first-come, first-serve basis. Applications will be assigned a processing case number when that application is received and is judged to be sufficiently complete for consideration. Where possible, applications will be processed in the order of the processing numbers assigned.

*Statutory Authority Section 111 of Part XXII Chapter 830, 1987 Session Laws.*

### .0202 GRANT CATEGORIES

(a) Applicants can apply for funding under different grant categories, including the categories of:

- (1) utility improvements or additions owned by public bodies;
- (2) utility improvements or additions owned by private entities;
- (3) industrial facilities owned by public bodies but being leased or being improved for immediate or delayed sale to private operators, or to private "arms-length" landlords;
- (4) industrial and manufacturing facilities owned by private "non-profit" entities such as "Community Development Corporations" or "Committees of 100" funded and/or endorsed by the elected



leadership of the unit of Government; and

- (5) industrial and manufacturing facilities owned by "for profit" entities to be improved by funds loaned to the private "profit-making" entity by a unit of city or county government.

(b) There is no minimum grant amount which applicants may request or be awarded. Grant awards shall not exceed the total amount specified by the General Assembly in its appropriation process. Chapter 830 of the 1987 Session Laws, in Section 111, Paragraph (2), limited the maximum grant to a sum not to exceed the lesser amount the two hundred fifty thousand dollars (\$250,000), or a total of twelve hundred dollars (\$1,200) for each job created. For the purpose of this Section, the per job limitation will be imposed on the basis of requiring a commitment from the occupying industrial or manufacturing firm as to the number of jobs it will create over a reasonable period of time, not to exceed three years. The number of jobs created will include only those people directly employed in permanent or seasonal jobs by the operator who occupies the facility; indirect and temporary jobs will not be included.

(c) When a project renovation or improvement is to be accomplished to a building or on a site owned by a private entity, whether the private entity is conducted on a "for profit" or on a "not for profit" basis, the project will be financed by a loan to that private entity. This loan will be made to the private entity by the local unit of government with funds made available from this program. In each case, the local unit of government will establish its own authority to do that financing. Reference is made to Chapter 639 of the General Statutes. The applicant will require and provide to the Department of Commerce satisfactory documentation that all costs are reasonable and that all funds are to be expended with regard to the conflict of interest statutes regulating business transactions between government officials and other involved parties. The applicant will propose a plan of project administration which is satisfactory for the Department of Commerce.

(d) All funds expended which directly assist participating private entities must be repaid to grant recipients and then returned to the Department of Commerce as such repayments are received. Such repaid funds will not be returned to the General Fund, but set aside to fund new projects approved under this Subchapter. Generally, project grants classified

under Rule .0202 (a) will not be repaid. Repayment for projects otherwise classified may be given subordinate collateral positions, interest costs which are at less than market rates, or amortization which defers cash flow, in so long as requests are documented as necessary to the creation of jobs and the success of the project.

*Statutory Authority Section 111 of Part XXII Chapter 830, 1987 Session Laws.*

## SECTION .0300 - SELECTION PROCESS

### .0301 REVIEW OF APPLICATIONS

(a) Applications will be submitted in a manner prescribed by the Department of Commerce. Selection of applications for funding will be based primarily on information contained in the application. Thusly the application must provide sufficient information for the Department of Commerce to rate them against the selection criteria. When an application is deemed complete, it will be assigned a processing case number.

(b) Applications must be received by the Department of Commerce, in the Commerce Finance Center, Room 2019, Dobbs Building, 430 N. Salisbury Street, Raleigh, North Carolina 27611. The department will maintain a policy that applications be approved or denied by the last day of the calendar month following assignment of a processing case number as set out in Rule .0201 (a). When possible, applications will be processed in the order that case number are assigned.

*Statutory Authority Section 111 of Part XXII Chapter 830, 1987 Session Laws.*

### .0302 ELIGIBILITY REQUIREMENTS

(a) Applications will show that:

- (1) That this funding is a vital part of the proposal to create the jobs set out and that the jobs will not be created if the project goes unfunded, and
- (2) That the project is completely funded or financed, except for the particular funds sought in the application, and
- (3) The involvement of the local unit of government is formally authorized by its elected board under specific resolution and by specific State Statute, and
- (4) The participating private entity must provide a letter of commitment relating to the project. That letter will state that the project is to be carried out as described in the application, with

specificity as to time schedules and to the parties involved.

*Statutory Authority Section 111 of Part XXII Chapter 830, 1987 Session Laws.*

#### SECTION .0400 - APPROVAL CRITERIA

##### .0401 GENERAL

In order for the Department of Commerce to approve a project, the secretary is required to make certain findings necessary to document that the Department of Commerce is conducting the duties specifically given to it in Chapter 830 of the 1987 Session Laws, those duties expressed in other General Statutes, and in Rule .0402 of these procedures, in a responsible and prudent manner.

*Statutory Authority Section 111 of Part XXII Chapter 830, 1987 Session Laws.*

##### .0402 REQUIRED FINDINGS

(a) Before the Department can begin to make the approval as specified in G.S. Chapter 830, a finding must be made that the project:

- (1) Will assist a unit of Government in one of the most economically depressed counties of the State as measured by median per capita income.
- (2) The funds will be used for renovation of buildings to be used in manufacturing and industrial operations.

(b) The secretary will document, a finding based on data provided to him either in the application or by staff research, that the jobs to be created by this project over no more than a three year period, will be large enough in number to have a measurable favorable impact on the area immediately surrounding the project and will be commensurate with the size and cost of the grant to the project. The department will use as a guideline, a standard of requiring one job saved or generated for each one thousand two hundred dollars (\$1,200) in grant financing. The applicant has the burden of demonstrating that the jobs will have a measurable impact on the county. The applicant must show by clear and convincing evidence the number and type of such jobs generated or saved.

(c) The secretary will make a finding that the operator of the proposed project has demonstrated the capabilities to operate such a facility. The applicant has the burden of showing that capability exists in the operator to operate and maintain the facility efficiently and effectively. Financial strength and prior related

experience by the operator will be given great weight. Where little or no prior experience can be demonstrated, the qualifications of management, including production or engineering staff, applicable, will be of great significance.

(d) The secretary will make a finding that the financing of such project by the authority will not cause or result in the abandonment of an existing industrial or manufacturing facility of the proposed operator of an affiliate elsewhere in the state unless the facility to be abandoned because of obsolescence, lack of available labor, or site limitations. The department shall consider an abandonment statement as prima facie proof of lack of abandonment.

(e) The department shall use the definitions of terms found in Section .0200 of this Subchapter to make these findings.

*Statutory Authority Section 111 of Part XXII Chapter 830, 1987 Session Laws.*

##### .0403 FORMAL APPLICATIONS PROCEDURES: DENIAL

(a) Unless the applicant has met its various burdens of proof, the secretary shall not make his required findings.

(b) All findings shall be in writing and where adverse findings are made, they shall specifically indicate in detail which elements of proof were weak, the required conclusions which could not be made and any suggestions for amending the application.

*Statutory Authority Section 111 of Part XXII Chapter 830, 1987 Session Laws.*

##### .0404 FORMAL APPLICATION PROCEDURES: APPROVAL

(a) Where the secretary makes all the findings necessary, he will do in writing to the applicant at the earliest possible date after following the procedures as set forth in this Subchapter.

(b) The secretary will prepare a letter of approval in which all his findings as set forth and cause this letter to be mailed to the applicant.

*Statutory Authority Section 111 of Part XXII Chapter 830, 1987 Session Laws.*

#### SECTION .0500 - RESERVATION OF FUNDS

##### .0501 GENERAL

(a) Units of government may apply for a "120 day reservation" of funds, relating to a particular building renovation, so as to allow local units of government to induce prospective private sector employers to locate or expand and thusly, to create new jobs. The

secretary may accept and approve the requests where local units of government can:

- (1) Document that they have the potential for a project of strong merit;
- (2) Where a particular employer is interested in a proposed industrial building;
- (3) Where strong competitive offers have been made to the client in other states or where more comparative proposals have been made to the potential employer by communities located in the least distressed counties. That application would be prepared along the lines of the application for approval described in Rule .0302 of this Subchapter, except that the data normally obtained from the client or potential employers would not be necessarily prepared by the client and would not be required in such detail.

*Statutory Authority Section 111 of Part XXII Chapter 830, 1987 Session Laws.*

#### **.0502 LIMITATIONS**

Such approvals may be made in so long as that the "reservation of funds" for that project will not cause the total program funds "reserved" in that manner to exceed a sum not larger than an amount equal to one-third of the total of program funds not previously committed in the regular approval process. The total of programs funds not previously committed will include appropriated funds, those funds received in repayment from recipients, interest earned, accrual in escrow accounts and funds not used and reverted from either approved projects or from "reserved" funds.

*Statutory Authority Section 111 of Part XXII Chapter 830, 1987 Session Laws.*

#### **.0503 REVERSION OF FUNDS**

An approval for "reservation" of funds for projects will not predicate approval or funding of a project. When a formal and complete application for approval of a project has not been filed by the applicant that requested the reservation of funds, before the expiration date of the "reservation of funds", the department may revert those funds back to the program without any obligation to the unit of government. Such reversion of funds will be communicated to the Unit of Government in writing.

*Statutory Authority Section 111 of Part XXII Chapter 830, 1987 Session Laws.*

### **SECTION .0600 - REPORTING REQUIREMENTS**

#### **.0601 REPORTING REQUIREMENTS**

(a) The Department of Commerce will report annually to the General Assembly concerning the applications made to the fund and the payments made from the fund and the impact of the payments in the targeted counties. This report will be filed annually with the General Assembly either at the expressed convenience of the House and the Senate or by March 1 of each year at the offices of the Lt. Governor and the Speaker of the House.

(b) The Department of Commerce will also file monthly reports with the Joint Legislative Commission and the Fiscal Research Division. These reports will commence on November 30, 1987 and shall name the party(s) to whom payments were made, in what amounts, and, for what purposes.

*Statutory Authority Section 111 of Part XXII Chapter 830, 1987 Session Laws.*

### **SUBCHAPTER 1J - NORTH CAROLINA JOBS TAX CREDIT**

#### **SECTION .0100 - PURPOSE AND DEFINITIONS**

##### **.0101 BACKGROUND AND OBJECTIVES**

Chapter 568 of the 1987 Session Laws provides that certain employers may be eligible for and may qualify for a credit against the tax proposed by the North Carolina Department of Revenue. This credit of two thousand eight hundred dollars (\$2,800) may be claimed when qualifying full-time employees are added by an eligible employer in a severely distressed county. The legislation sets out particular responsibilities for three separate departments of State Government; this Section is to set how the Department of Commerce will conduct activities and responsibilities assigned to it under this act.

*Statutory Authority G.S. 105-130.4(c); 105-130.4(d); 105-151.17(c); 105-151.17(d); Chapter 568 of the 1987 Session Laws.*

##### **.0102 DEFINITIONS**

(a) "Distress factor": a distress factor is defined as the sum of:



- (1) the county's rank in a ranking of counties by rate of unemployment from lowest to highest, and
- (2) the county's rank in a ranking of counties by per capita income from highest to lowest.

(b) "Date of signing" shall be defined as the date on which the Secretary of Commerce, his designee, or the Commerce Finance Center receives and accepts as complete, a commitment under Paragraph (d) of G.S. 105-130.4 and G.S. 105-151.17. Such a commitment will not be so defined unless it is signed by a officer of the corporation or by the taxpayer.

(c) "Department" means the North Carolina Department of Commerce.

(d) "Eligible employer" is defined as a corporation that engages in, or that is a taxpayer that owns a business that engages in, manufacturing, agribusiness, procession, warehousing, retailing, research and development or a service-related industry, as determined by the North Carolina Employment Security Commission.

(e) "Full time employee" is defined as an employee who holds a full time job.

(f) "Full time job" is defined as a position that is located in the distressed county and requires at least 1600 hours of work per year and is intended to be held by one person during the entire year. A job is considered to be in the county if:

- (1) at least 50 percent of the employees duties are performed in the county, or
  - (2) the employee is a resident of the county.
- (g) "Letter of Commitment" is defined as an agreement between the department and a corporation or a taxpayer that is:

- (1) determined as eligible for this credit by the Employment Security Commission, or
- (2) if a formal determination has not been made by the Employment Security Commission, that has received a advisory opinion to that effect from that agency's chief counsel. This letter of commitment will set out:

- (A) the name of the corporation or the individual taxpayer entity that will file the North Carolina tax return under Chapter 105,
- (B) the name that will be used in the conduct of business, if different from,
- (C) the permanent or Home Office address of the management group directing the operation of the business,

(D) the location(s) of the qualifying business operations within the distressed county,

(E) a schedule showing the number of permanent full time positions to be created and the time sequence for their being filled,

(F) an estimate of the cost of new capital expenditures within the distressed county over the two year time period of the commitment,

(G) an official contact with the operating firm to whom inquiries pertinent to the agreement can be directed,

(H) the firm's statement regarding awareness of and acceptance of procedures relating to the program being required by the North Carolina Employment Security Commission, especially as regards to the filing of quarterly wage reports,

(I) the date of signing, as defined in (b) of this Rule.

(h) "Severely distressed County" is defined as a county designated as such by the Secretary of the Department of Commerce. The secretary will make such a designation only if a county has a distressed factor that is one of the 20 highest in the state and it has an unemployment rate of seven percent or more.

*Statutory Authority G.S. 105-130.4(c); 105-130.4(d); 105-151.17(c); 105-151.17(d); Chapter 568 of the 1987 Session Laws.*

## SECTION .0200 - DESIGNATION OF SEVERELY DISTRESSED COUNTIES

### .0201 DESIGNATION OF SEVERELY DISTRESSED COUNTIES

On or before December 31 of each calendar year, the secretary of the department shall designate which counties are considered as severely distressed, and shall provide that information to the Secretary of Revenue. The department will obtain from the North Carolina Employment Security Commission the adjusted monthly estimates of unemployment for the most recent 36 month period for which data is available. Those monthly estimates will be averaged and those averages used to rank the counties by arranging them in numerical order of the county with the lowest unemployment as number 1 to the county with the highest unemployment as number 100.

The department will obtain from the United States Department of Commerce the latest



available annual per capita income figures, by county, for the most recent 36 month period for which data is available. Those annual figures will be averaged and those averages used to rank the counties in numerical order of the county with the highest per capita income average as number 1 to the county with the lowest per capita income average as number 100. These two rankings will be totaled so as to provide a sum which will be the county's distress factor. Those 20 counties with the highest distress factors will be enumerated. That list of 20 counties will be compared to the adjusted unemployment figures for the latest month in that 36 month period data obtained from the Employment Security Commission. Where that county unemployment rate for that latest month is seven percent or more, the secretary will designate the county as severely distressed, documenting that:

- (1) a county has a distress factors which is one of the 20 highest in the state, and
- (2) a county has an unemployment rate of seven percent or more.

The list of counties so designated will be provided to the Secretary of the North Carolina Department of Revenue. In addition, written notice of that designation will be given to the chairman of elected governing board in each county so designated.

*Statutory Authority G.S. 105-130.4(c); 105-130.4(d); 105-151.17(c); 105-151.17(d); Chapter 568 of the 1987 Session Laws.*

#### SECTION .0300 - LETTER OF COMMITMENT

**.0301 LETTER OF COMMITMENT**  
 "Letter of Commitment" will be made in the form prescribed by the Department of Commerce. They will complete as defined in Rule .0102 (g) of this Section. When accepted and signed by the secretary, or his designee, that acceptance will be given in writing to the person(s) or entity offering the commitment. These commitments will be received and will be kept on record at the Commerce Finance Center, Room 2019, Dobbs Building, 430 N. Salisbury Street, Raleigh, North Carolina 27611. A summary listing of those commitments made available to the Department of Revenue within 90 days after the close of each calendar year.

*Statutory Authority G.S. 105-130.4(c); 105-130.4(d); 105-151.17(c); 105-151.17(d); Chapter 568 of the 1987 Session Laws.*

## TITLE 10 - DEPARTMENT OF HUMAN RESOURCES

*Notice is hereby given in accordance with G.S. 150B-12 that the Director of the Division of Mental Health, Mental Retardation and Substance Abuse Services intends to amend regulations cited as 10 NCAC 14C .1114; .1117(b)(4).*

*The proposed effective date of this action is April 1, 1988.*

*The public hearing will be conducted at 11:00 a.m. on January 15, 1988 at Administration Building, Room 3106T, 116 West Jones Street, Raleigh, NC 27611.*

*Comment Procedures: Any interested person may present his/her comments by oral presentation or by submitting a written statement. Persons wishing to make oral presentations should contact: Jan Warren, Division of Mental Health, Mental Retardation and Substance Abuse Services, 325 N. Salisbury St., Raleigh, N.C. 27611, (919) 733-7971 by January 15, 1988. The hearing record will remain open for written comments from December 15, 1987 through January 15, 1988. Written comments must be sent to the above address and must state the rule/rules to which the comments are addressed. Fiscal information on these rules is also available from the same address.*

## CHAPTER 14 - MENTAL HEALTH: GENERAL

### SUBCHAPTER 14C - GENERAL RULES

#### SECTION .1100 - STATE AND FEDERAL FUNDS ADMINISTERED

##### .1114 FUNDING EARLY INTERVENTION FOR CHILDREN WITH MR/DD

(a) The division shall administer a program of grants to area programs to be called funds for early intervention for the children with mentally retarded, mental retardation or other developmental disabilities.

(b) Such grants shall be used to provide for the establishment of local multidisciplinary teams for the provision of program consultation, family support and family centered training for preschool children, (defined as those who have not reached their fifth birthday on or before October 15 of the school year) within the following guidelines:

- (1) ~~A minimum of 70 percent of the active caseload, excluding children in screening for admissions and follow along, shall be within the age range of birth to three years. Children served shall be mentally retarded, developmentally disabled, developmentally delayed or have atypical development or be at risk for one of these conditions.~~
- (2) ~~A minimum of 70 percent of active cases, excluding children in screening for admission and follow along, shall be moderately, severely or profoundly mentally retarded, or infants up to three years of age who are at high risk for mental retardation, for whom a diagnostic label of mental retardation is inappropriate, as certified by a licensed physician. The remaining 30 percent of active cases may be within the secondary priority population specified in (b)(4) of this Rule. Priority shall be given to those children under three years of age.~~
  - (2) ~~Priority shall be given to high risk infants up to three years of age and moderately, severely and profoundly retarded children up to three years of age.~~
  - (4) ~~Secondary priority shall be given to children who are mentally retarded or who have other developmental disabilities or delays.~~
  - (5) ~~No eligible child under three years of age shall remain on a waiting list for services for more than one calendar month unless all active cases are within the priority population listed in (b)(3) of this Rule.~~
- (c) ~~To apply for funds for early intervention, for the mentally retarded, an annual plan and budget for such funds shall be included in the appropriate area program's total annual plan and budget package when it is submitted to the regional office of the division.~~
- (d) ~~Funds for early intervention for the mentally retarded shall be allocated among the regions of the division by the division director.~~
- (e) ~~Based on the approved annual plan and budget request submitted and availability of funds, allocation of funds for early intervention for the mentally retarded to area programs shall be approved by the division director or his designee.~~

Statutory Authority G.S. 122C-112(a)(6); 122C-131; 122C-147; 122C-150.

#### 1117 GRANT-IN-AID FOR ADULT DEVELOPMENTAL ACTIVITY PROGRAMS

- (b) Such grant-in-aid funds shall be used to support clients who are:
  - (4) eligible for ADAP grant-in-aid regardless of financial resources with the exception of a client whose work earnings exceed one-half the federal statutory minimum wage over a consecutive 90-day period. With prior approval of the appropriate regional director, clients who are participating in a supported employment program authorized by the division may have earnings in excess of one-half the minimum wage. Eligibility for clients in non-supported employment settings whose earnings have exceeded over one-half the minimum wage for over 90 consecutive days may be extended for up to one calendar year if supported employment options are not available locally and the client is ineligible for other services from the Division of Vocational Rehabilitation, or if the client's social, behavioral or vocational skill deficits preclude participation in supported employment options and results in ineligibility for other vocational rehabilitation services. Requests for the extension shall be based on a joint meeting between a representative of the involved ADAP, the local Vocational Rehabilitation unit, and the area program. The request shall be submitted to and approved by the designated area program qualified mental retardation professional responsible for client certification. The request shall identify the specific skill deficits precluding eligibility for supported employment or other vocational rehabilitation services and plans for reducing these deficits. The certification extension may be reapplied for a maximum of two times. The same criteria and procedures shall be followed in each instance of reapplication as are required for the initial extension.

Statutory Authority G.S. 122C-112 (a) (6); 122C-131; 122C-141.

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Notice is hereby given in accordance with G.S. 150B-12 that The Division of Vocational Rehabilitation Services intends to amend regulations cited as 10 NCAC 20A .0101 - .0102; 20B .0101 - .0108.

The proposed effective date of this action is April 1, 1988.

The public hearing will be conducted at 7:00 p.m. on January 14, 1988 at Conference Room, Division of Vocational Rehabilitation Services, 620 North West Street, Raleigh, North Carolina.

**Comment Procedures:** Any interested person may present his/her comments by oral presentation at the hearing for a maximum of ten minutes or by submitting a written statement. Any person wishing to make an oral presentation should contact: Jackie Stalnaker, Special Assistant for Plans and Policy, Division of Vocational Rehabilitation Services, P. O. Box 26053, Raleigh, North Carolina 27611, (919) 733-3364 by January 13, 1988. The hearing record will remain open for written comments for 30 days from December 16, 1987 through January 14, 1988. Written comments must be sent to Jackie Stalnaker at the address specified above by January 14, 1988 and must state the proposed rule or rules to which the comments are addressed. Fiscal information is also available upon request from the same address.

## CHAPTER 20 - VOCATIONAL REHABILITATION

### SUBCHAPTER 20A - IDENTIFYING INFORMATION

#### SECTION .0100 - DIVISIONAL STRUCTURE

##### .0101 RULES IN THIS CHAPTER

The division of vocational rehabilitation services is located at 620 North West Street, Post Office Box 26053, Raleigh, North Carolina, 27611. Its office hours are 8:00 a.m. to 5:00 p.m. Monday through Friday.

The Rules in this Chapter govern the provision of services by the Division of Vocational Rehabilitation Services of the Department of Human Resources under the Rehabilitation Act of 1973, Public Law 93-112, as amended; G.S. 8B; G.S. 143-545 and 143-546; G.S. 143B-213 through 143B-216.5; and G.S. 168 and 168A.

Statutory Authority G.S. 8B-1(3); 143-545; 143-546; 143B-10; 143B-216.5; 168; 168A.

##### .0102 DEFINITIONS

The purpose of the division of vocational rehabilitation services is to assist in the vocational rehabilitation of physically and mentally disabled persons under the state plan for vocational rehabilitation services by developing a comprehensive range of evaluation and rehabilitation programs; and by promoting the necessary societal, environmental, and economical changes needed for these individuals to be accepted, assimilated, and adjusted into all aspects of society and achieve a state of non-dependency. The primary goal is to place handicapped people in a job through a program of vocational rehabilitation services. Its responsibilities include:

- (1) the provision of continuous statewide planning directed toward current assessments of needs of handicapped individuals and how these needs may be most effectively met;
- (2) the provision of a comprehensive evaluation of the disabled individual and the provision of a comprehensive program of vocational rehabilitation services to the eligible handicapped;
- (3) the provision of leadership in the development of facilities and programs needed in the state for rehabilitating the handicapped;
- (4) the developing and maintenance of co-operative relations and programs with the public and private agencies of the state and its communities in order to better meet the needs of the handicapped;
- (5) the performance of functions and responsibilities related directly to other federal acts;
- (6) the provision of general administration for the state vocational rehabilitation program under the state plan.

As used in this Chapter, the following terms have the meaning specified:

- (1) "Division" means the Division of Vocational Rehabilitation Services of the Department of Human Resources.
- (2) "Division director" or "director" means the Director of the Division of Vocational Rehabilitation Services.

Statutory Authority G.S. 143-545; 143-546; 143B-10; 143B-216.5; 168.

#### SUBCHAPTER 20B - PROCEDURE

SECTION .0100 - RULEMAKING  
PROCEDURES

.0101 PURPOSE AND SCOPE

(a) Any person wishing to submit a petition requesting the adoption, amendment, or repeal of a rule by the division of vocational rehabilitation services shall address the petition to:

Director

Division of Vocational Rehabilitation Services  
620 North West Street

Post Office Box 26053

Raleigh, North Carolina 27611

The director will be responsible for notifying the hearing officer, Department of Human Resources of such petition.

(b) The petition should contain the following information:

- (1) either a draft of the proposed rule or a summary of its content;
- (2) statutory authority of the agency to promulgate the rule;
- (3) reasons for the proposal;
- (4) effect of existing rules or orders;
- (5) any data supporting the proposal;
- (6) effect of the proposed rule on existing practices in the area involved, including cost factors;
- (7) names and addresses, if known, of those most likely to be affected by the proposed rule; and
- (8) name and address of petitioner.

(c) The director will determine, based on a study of the facts stated in the petition, whether the public interest will be served by granting the petition. The director shall consider all the contents of the submitted petition, plus any additional information he deems relevant.

(d) Within 30 days of submission of the petition, the Director of the Division of Vocational Rehabilitation Services will render a decision to deny the petition or to initiate rulemaking proceedings. If the decision is to deny the petition, the director will notify the petitioner in writing, stating the reasons for the denial. If the decision is to approve the petition, the director will initiate a rulemaking proceeding by issuing a rulemaking notice, as provided in these rules. The director will be responsible for notifying the hearing officer, Department of Human Resources of his decision.

(a) The purpose of Rules .0101 through .0108 of this Section is to set forth the Division of Vocational Rehabilitation Services' procedures for rule-making hearings and declaratory rulings.

(b) The procedures in these Rules shall be followed by persons wishing to submit comments, written or oral, at rule-making hearings, by persons requesting additional information regarding proposed or adopted rules, and by persons requesting declaratory rulings.

(c) As used in these Rules, the term "rule" has the meaning specified in G.S. 150B-2(8a) and includes the amendment or repeal of a prior rule as well as the adoption of a new rule.

Statutory Authority G.S. 143-545; 143-546; 143B-10(j)(2); 150B-11.

.0102 PETITIONS

(a) Upon a determination to hold a rulemaking proceeding, either in response to a petition or otherwise, the division of vocational rehabilitation services will give 10 days notice to all interested parties of a public hearing on the proposed rule.

(b) Any person or agency desiring to be placed on the mailing list for the division of vocational rehabilitation services rulemaking notices may file a request in writing, furnishing their name and mailing address with the:

Deputy Director

Division of Vocational Rehabilitation Services  
620 North West Street

Post Office Box 26053

Raleigh, North Carolina 27611

(c) The division of vocational rehabilitation services will review its mailing list periodically, and may write to any person on the list to inquire whether that person wishes to remain on the list. If no response is received, that person may be removed from the list.

(d) If practical or appropriate, public notice of rulemaking proceedings will be sent to community, special interest, government, trade or professional organizations for publication.

(e) When the agency intends to adopt a rule by reference, the rulemaking notice will include, in addition to the requirements stated in North Carolina General Statute 150A-12(a):

- (1) name and address of agency or organization which previously adopted the material;
- (2) title and identifying number of previously adopted material; and
- (3) date and edition of previously adopted material.

(f) Persons desiring information in addition to that provided in a particular rulemaking notice may contact the:

Deputy Director

Division of Vocational Rehabilitation Services  
620 North West Street



Post Office Box 26053

Raleigh, North Carolina 27611

(a) Any person wishing to submit a petition requesting the adoption, amendment, or repeal of a rule by the division director shall address the petition to: A.P.A. Coordinator, Division of Vocational Rehabilitation Services, P.O. Box 26053, Raleigh, North Carolina 27611.

(b) The petition shall contain the following information:

- (1) either a draft of the proposed rule or a summary of its contents and the statutory authority for the division director to promulgate the rule;
- (2) reason for the proposal;
- (3) effect of existing rules;
- (4) any data supporting the proposal;
- (5) the effect of the proposed rule on existing practices in the area involved, including cost factors;
- (6) names and addresses, if known, of those most likely to be affected by the proposed rule; and
- (7) name and address of the petitioner.

(c) The division director shall determine, based on a study of the facts stated in the petition, whether the public interest will be served by granting the petition. The division director shall consider all the contents of the petition, plus any additional information deemed relevant.

(d) The division director shall render a final decision on the petition within 30 days of submission of the petition. If the decision is to deny the petition, the petitioner shall be notified in writing and provided the reasons for the denial. Denial of the petition shall be considered a final agency decision as specified in G.S. 150B-16. If the decision is to approve the petition, rule-making proceedings shall be initiated in accordance with the Rules in this Section.

Statutory Authority G.S. 143-545; 143-546; 143B-10(j)(2); 150B-11; 150B-16.

#### .0103 NOTICE

The Director of the Division of Vocational Rehabilitation Services shall designate and authorize one or more hearing officers to be hearing officers in a rulemaking hearing.

(a) When a rule-making hearing is scheduled, in response to a petition or otherwise, the division shall give notice of a public hearing. The notice shall meet the requirements of G.S. 150B-12.

(b) Persons desiring information in addition to that provided in a particular rule-making

notice shall contact the division's A.P.A. Coordinator or other person specified in the hearing notice according to the directions in the notice.

Statutory Authority G.S. 143-545; 143-546; 143B-10(j)(2); 150B-11; 150B-12.

#### .0104 HEARINGS

(a) Any person desiring to present data, views, or arguments orally on the proposed rule must, at least three days before the hearing, file a request with the:

Deputy Director

Division of Vocational Rehabilitation Services

620 North West Street

Post Office Box 26053

Raleigh, North Carolina 27611

This requirement may be waived or a failure to file a request may be excused for good cause by the presiding officer. Any person permitted to make an oral presentation is encouraged to submit a written copy of the presentation to deputy director prior to or at the hearing.

(b) A request to make an oral presentation must contain a brief summary of the requesting persons' views with respect to the subject matter, and a statement of the length of the time the person intends to speak. Presentations may not exceed 10 minutes unless, upon request either before or at the hearings, the hearing officer grants an extension of time for good cause.

(c) The deputy director shall promptly acknowledge receipt of a request to make an oral presentation and will inform the person requesting of any limitations deemed necessary to the end of a full and effective public hearing on the proposed rule. He will also notify the hearing officer, Department of Human Resources of such request.

(d) Any person may file a written submission containing data, comments, or arguments after publication of a rulemaking notice up to and including the day of the hearing unless a longer period is stated in the particular notice or an extension of time is granted for good cause. A submission must clearly state the rule or proposed rule to which the comments are addressed and must also include the name and address of the person submitting it. Written submissions must be sent to the:

Deputy Director

Division of Vocational Rehabilitation Services

620 North West Street

Post Office Box 26053

Raleigh, North Carolina 27611

The deputy director will promptly acknowledge receipt of all written submissions and notify the hearing officer, Department of Human Resources.

(a) Oral Presentations. Any person desiring to make an oral presentation on a proposed rule should file a request at least one day prior to the hearing with the division's A.P.A. Coordinator or other person specified in the hearing notice. Any person making an oral presentation is encouraged to submit a written copy of the presentation to the hearing officer prior to or at the hearing. Oral presentations shall not exceed 10 minutes unless, upon request either before or at the hearing, the hearing officer grants an extension of time for good cause.

(b) Written Submissions.

(1) Any person may file a written submission containing data, comments, or arguments within the 30-day period that the hearing record is open for written comments. The deadline for written submissions shall be stated in the hearing notice.

(2) The written submission shall clearly state the proposed rule to which the comments are addressed and shall also include the name and address of the person submitting it. Written submissions shall be sent to the person and address specified in the hearing notice.

(c) Management of Hearing. The presiding hearing officer at the hearing shall have complete control of the proceedings hearing, including:

- (1) the responsibility of having a record made of the proceedings hearing,
- (2) extension of any time allotments,
- (3) recognition of speakers,
- (4) elimination of repetitious presentation, presentations, and
- (5) general management of the hearing.

(d) Fair Opportunity to Present Views. The presiding hearing officer shall assure insure that each person at participating in the hearing is given a fair opportunity to present views, data, and comments.

*Statutory Authority G.S. 143-545; 143-546; 143B-10(j)(2); 150B-11; 150B-12.*

#### .0105 JUSTIFICATION OF RULE-MAKING DECISION

(a) Any interested person, either prior to adoption of a rule or within 30 days thereafter, who desires from the division of vocational rehabilitation services a concise written state-

ment of the principal reasons for or against the decision adoption of a rule by the division director of Vocational Rehabilitation Services to adopt or reject a rule and the factors that led to overruling the considerations urged against its adoption, may, either prior to the decision or within 30 days thereafter, submit a request to: the:

Deputy Director A.P.A. Coordinator  
Division of Vocational Rehabilitation Services  
2620 North West Street  
Post Office Box 26053  
Raleigh, North Carolina 27611

(b) For purposes of this Rule, an "interested person" shall be any person, group, or organization as defined in G.S. 150A-2(7), whose rights, duties, or privileges might be affected by the adoption of the rule.

(c) The request must shall be made in writing, and must shall contain a statement showing that the requesting individual submitting the request is an "interested person", and must shall identify the rule or proposed rule involved.

(d) The division director of the Division of Vocational Rehabilitation Services shall issue the a written statement of reasons for or against its decision the adoption or rejection of the rule within 45 30 days after the receipt of the request.

*Statutory Authority G.S. 143-545; 143-546; 143B-10(j)(2); 150B-11; 150B-12.*

#### .0106 RECORD OF RULE-MAKING HEARINGS

A record of all rule-making proceedings hearings including any petitions received by the division of vocational rehabilitation services shall be maintained by the office of the division's A.P.A. Coordinator. The record division and shall be available for public inspection during regular office hours. This record will and shall include:

- (1) the original any petitions related to the hearing,
- (2) the hearing notice,
- (3) all written memoranda and information submitted,
- (4) a record of the oral hearing, and
- (5) a final draft of the rule. any statement of reasons issued to an interested person according to Rule .0105 of this Section, and
- (6) a final draft of the rule.

It will be maintained in a file at the Division of Vocational Rehabilitation Services, 620 North West Street, Raleigh, North Carolina,



27611, and will be available for public inspection during regular office hours.

Statutory Authority G.S. 143-545; 143-546; 143B-10(j)(2); 150B-11.

#### .0107 FEES

A fee of twenty-five cents (\$0.25) per page shall be charged by the division of vocational rehabilitation services to persons requesting materials relating to the rulemaking hearing. Except when a statute provides otherwise, the division may charge a fee to cover the costs of meeting requests for information related to the rule-making hearing including material, duplicating, mailing, and allocable personnel costs.

Statutory Authority G.S. 12-3.1(c); 143-545; 143-546; 143B-10(j)(2); 150B-11.

#### .0108 DECLARATORY RULINGS

(a) The Director of the Division of Vocational Rehabilitation Services shall have the power to make declaratory rulings. All requests for declaratory rulings shall be by written petition and shall be submitted to: the

Director A.P.A. Coordinator

Division of Vocational Rehabilitation Services  
620 North West Street

Post Office Box 26053

Raleigh, North Carolina 27611

The director will be responsible for notifying the hearing office of the Department of Human Resources of such request.

(b) Every request for a declaratory ruling must shall include the following information:

- (1) the name, and address, and telephone number of the petitioner;
- (2) the statute, or rule, or order to which the petition relates;
- (3) a concise statement of the reasons why manner in which the petitioner is aggrieved by the rule, or statute, or order, or its potential application to the petitioner; him, and
- (4) the consequences of a failure to issue a declaratory ruling.

(c) Whenever the director believes for good cause that the issuance of a declaratory ruling is undesirable, he the director may decline refuse to issue one. In such cases, When good cause is deemed to exist, the director shall notify the petitioner in writing and the hearing office of the Department of Human Resources of his the decision stating the reasons for the denial of a declaratory ruling. The director may decline refuse to issue a declaratory ruling

in the following specific circumstances: consider the validity of a rule:

- (1) unless the petitioner shows that the circumstances are so changed since adoption of the rule that such a ruling would be warranted;
  - (2) unless the rulemaking record evidences a failure by the agency to consider specified relevant factors;
  - (3) if there has been a similar controlling factual determination in a contested case, or if the factual context being raised for a declaratory ruling was specifically considered upon adoption of the rule being questioned as evidenced by the rulemaking record; or
  - (4) if circumstances stated in the request are otherwise known to the agency show that a contested case hearing would presently be appropriate.
- (1) if the request for a declaratory ruling addresses a situation or fact(s) similar to those specifically considered at the rule-making hearing and is found in the rule-making record;
  - (2) if the petitioner cannot show that the circumstances are so changed since adoption of the rule that such a ruling would be warranted; or
  - (3) if the circumstances stated in the request indicate that there is a factual dispute and a contested case hearing would be more appropriate.

(d) When issuing Where a declaratory ruling is deemed appropriate, the director will shall issue the ruling within 60 days of receipt of the petition.

(e) A declaratory ruling procedure may consist of written submissions, oral hearings, or such other procedures as may be deemed appropriate at the discretion of by the director in a particular case.

(f) The director may notify issue notice to persons who might be affected by the ruling that they may submit written comments may be submitted or make oral presentations received at a scheduled hearing.

(g) A record of all declaratory ruling proceedings will shall be maintained by the division's A.P.A. Coordinator and shall be available for inspection during regular business hours. of vocational rehabilitation services. This record will shall contain:

- (1) the original request,
- (2) reasons for refusing to issue a ruling;
- (3) (2) all written memoranda and information submitted,
- (4) (3) a record of any oral hearing, and

(5) (4) a statement of the ruling, or the reasons for refusing to issue a ruling. This record will be maintained in a file at the Division of Vocational Rehabilitation Services, 620 North West Street, Raleigh, North Carolina, 27611, and will be available for public inspection during regular office hours.

Statutory Authority G.S. 143-545; 143-546; 143B-10(j)(2); 150B-11; 150B-17.

## TITLE 11 - DEPARTMENT OF INSURANCE

Notice is hereby given in accordance with G.S. 150B-12 that the Department of Insurance intends to amend regulations cited as 11 NCAC 13 .0507 and .0508.

The proposed effective date of this action is April 1, 1988.

The public hearing will be conducted at 10:00 a.m. on January 15, 1988 at 3rd Floor Hearing Room, Dobbs Building, 430 N. Salisbury Street, Raleigh, NC 27611.

Comment Procedures: Written comments should be sent to: Fred Mohn, N.C. Department of Insurance, P. O. Box 26387, Raleigh, NC 27611. He may be contacted by phone at: (919) 733-2200.

### CHAPTER 13 - SPECIAL SERVICES DIVISION

#### SECTION .0500 - BAIL BONDSMEN AND RUNNERS

##### .0507 SECURITY DEPOSIT BY PROFESSIONAL BONDSMAN

(a) The first five thousand dollars (\$5,000) of the security deposit required under General Statute 85C-30 shall be certificates of deposit from a North Carolina bank or savings and loan association of the professional bondsman's choice or other negotiable securities satisfactory to the commissioner. Such certificates of deposit or other securities shall be registered as follows: "Treasurer of the State of North Carolina in trust for (name of professional bondsman) and the State of North Carolina as their respective interests may appear under Chapter 85C of the North Carolina General Statutes." Such certificates of deposits or other securities received by the North Carolina Department of Insurance will be

transferred to a master trust bank pursuant to NCGS 58-7.5. The registration of such securities should read as follows: "(Name of Master Trust Bank) as custodian for the North Carolina Department of Insurance for the benefit of (Name of Professional Bondsman)."

(b) Security over and above the first five thousand dollars (\$5,000) may consist of bonds of the United States or the State of North Carolina, other negotiable securities or a first mortgage on real property, upon review and acceptance by the Commissioner of Insurance, and other negotiable securities upon review and approval by the Commissioner of Insurance.

Statutory Authority G.S. 58-7.5; 85C-2(a); 85C-30.

##### .0508 STOCKS OR BONDS AS SECURITY

When stocks or bonds are submitted to the Commissioner of Insurance by a professional bondsman as security deposit and are found satisfactory by the commissioner, the professional bail bondsman shall sign and deliver to the commissioner, in addition to the power of attorney specified in General Statute 85C-32, an "irrevocable stock or bond power" on forms supplied by the commissioner. The irrevocable stock or bond power shall contain a description of the stocks or bonds being deposited as security; a statement that the professional bondsman sells, assigns and transfers the stocks or bonds to "the Treasurer of the State of North Carolina in trust for (name of professional bondsman) and the State of North Carolina as their respective interests may appear under Chapter 85C of the North Carolina General Statutes" and other pertinent information. The irrevocable stock or bond power shall contain a description of the stocks or bonds being deposited as security, a statement that the professional bondsman sells, assigns, and transfers the stocks or bonds to the (Name of the Master Trust Bank) as custodian for the North Carolina Department of Insurance for the benefit of (Name of Professional Bondsman).

When satisfactory bonds are submitted to the commissioner by a professional bail bondsman, the commissioner will accept 80 percent of the fair market value of such bonds as the amount of security furnished. When satisfactory stocks are submitted by a professional bail bondsman, the commissioner will accept 60 percent of the fair market value of



such stocks as the amount of security furnished.

*Statutory Authority G.S. 58-7.5; 85C-30.*

# **TITLE 14A - DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY**

*Notice is hereby given in accordance with G.S. 150B-12 that the Department of Crime Control & Public Safety-Governor's Crime Commission intends to adopt regulations cited as 14A NCAC 7 .0106 - .0109; .0204 - .0211; .0308 - .0318; .0406 - .0407; .0504; and repeal regulations cited as 14A NCAC 7 .0101 - .0105; .0201 - .0203; .0301 - .0307; .0401 - .0405; .0501 - .0503.*

*The proposed effective date of this action is April 1, 1988.*

*The public hearing will be conducted at 10:30 a.m. on January 14, 1988 at Library, Second Floor, Archdale Building, Raleigh, NC.*

*Comment Procedures: Any interested person may present comments relevant to the action proposed at the public hearing either in written or oral form. Written statements not presented at the public hearing may be directed prior to the hearing to the Administrative Procedures Coordinator, Second Floor, Archdale Building, 512 N. Salisbury Street, Raleigh or P.O. Box 27687, Raleigh, NC 27611-7687.*

## **CHAPTER 7 - DIVISION OF GOVERNOR'S CRIME COMMISSION**

### **SECTION .0100 - PURPOSE: ORGANIZATION**

- .0101 GOVERNOR'S CRIME COMMISSION: PURPOSE (REPEALED)
- .0102 DIVISION OF GOVERNOR'S CRIME COMMISSION: PURPOSE (REPEALED)
- .0103 GOVERNOR'S CRIME COMMISSION: ORGANIZATION (REPEALED)
- .0104 DIVISION OF GOVERNOR'S CRIME COMMISSION: ADDRESS (REPEALED)
- .0105 RULE-MAKING AND ADMINISTRATIVE HEARING PROCEDURES: APPEAL (REPEALED)

*Statutory Authority G.S. 143B-10(b); 143B-477; 143B-479; 143B-480; 150A-11; 150A-14.*

### **SECTION .0200 - GRANT APPLICATION FORM AND SUBMISSION PROCEDURES**

- .0201 GRANT APPLICATION FORM AND REQUIREMENTS (REPEALED)
- .0202 APPLICATION SUBMISSION PROCEDURES (REPEALED)
- .0203 APPLICATION RECEIPT DATES (REPEALED)

*Statutory Authority G.S. 143B-477; 143B-479.*

### **SECTION .0300 - GUIDELINES FOR PLANNING: ASSUMPTION OF PROJECT COSTS: GRANT PERIOD: SINGLE 24 MONTH APPLICATION: APPLICATION TIME PERIOD FOR SPECIFIC ELIGIBLE GRANTEES**

- .0301 COST ASSUMPTION PLANS: FUND MATCHING REQUIREMENTS (REPEALED)
- .0302 GRANT PERIOD (REPEALED)
- .0303 A SINGLE 24 MONTH APPLICATION WITH TWO 12 MONTH BUDGETS (REPEALED)
- .0304 APPLICATION TIME PERIOD FOR SPECIFIC ELIGIBLE GRANTEES (REPEALED)
- .0305 DISALLOWED COSTS (REPEALED)
- .0306 INDIRECT COSTS (REPEALED)
- .0307 MINIMUM DOLLAR AMOUNT FOR APPLICATION ACCEPTANCE (REPEALED)

*Statutory Authority G.S. 143B-477; 143B-479.*

### **SECTION .0400 - APPLICATION REVIEW PROCEDURES**

- .0401 ACKNOWLEDGEMENT OF APPLICATION BY QUARTERLY RECEIPT DATE (REPEALED)
- .0402 CONSISTENCY WITH CRIME COMMISSION CRIMINAL JUSTICE PLANS (REPEALED)
- .0403 COMPLETE APPLICATIONS (REPEALED)
- .0404 PROCESSING MERITORIOUS APPLICATIONS (REPEALED)
- .0405 APPLICATION MODIFICATIONS (REPEALED)

*Statutory Authority G.S. 143B-477; 143B-479.*

### **SECTION .0500 - GRANT TERMINATION AND APPEAL**

- .0501 GRANT TERMINATION (REPEALED)
- .0502 LOSS OF GRANTEE ELIGIBILITY (REPEALED)
- .0503 APPEAL (REPEALED)

*Statutory Authority G.S. 143B-477; 143B-479.*

SECTION .0100 - PURPOSE: ORGANIZATION

**.0106 GOVERNOR'S CRIME COMMISSION:  
PURPOSE**

The Governor's Crime Commission shall have the following powers and duties:

- (1) To serve, along with its committees, as the chief advisory board to the Governor and to the Secretary of the Department of Crime Control and Public Safety on matters pertaining to the criminal justice system;
- (2) To recommend such plans which may be required by any state or federal grant programs, as well as programs, policies, and proposed legislation for the improvement of criminal justice throughout the state which are consistent with and serve to foster the following established goals of the criminal justice system:
  - (a) to reduce crime,
  - (b) to protect individual rights,
  - (c) to achieve justice,
  - (d) to increase efficiency in the criminal justice system,
  - (e) to promote public safety,
  - (f) to provide for the administration of a fair and humane system which offers reasonable opportunities for adjudicated offenders to develop progressively responsible behavior, and
  - (g) to increase professional skills of criminal justice officers;
- (3) To advise state and local law enforcement agencies in improving law enforcement and the administration of criminal justice;
- (4) To make studies and recommendations for the improvement of law enforcement and the administration of criminal justice;
- (5) To encourage public support and respect for the criminal justice system in North Carolina;
- (6) To seek ways to continue to make North Carolina a safe and secure state for its citizens;
- (7) To recommend recipients of grants for use in pursuing the commission's objectives under such conditions as are deemed to be necessary;
- (8) To serve as a coordinating committee and forum for committees formed pursuant to G.S. 143B-480 and Rule .0108(b) of this Section;
- (9) To serve as the primary channel through which local law enforcement departments and citizens can lend their advice, and

state their needs, to the Department of Crime Control and Public Safety.

*Statutory Authority G.S. 143B-479.*

**.0107 GOVERNOR'S CRIME COMMISSION  
DIVISION: PURPOSE**

(a) The Governor's Crime Commission Division shall provide professional and clerical services required by the Governor's Crime Commission and its committees and shall administer federal criminal justice block grant programs and such additional related programs as may be established or assigned to the Governor's Crime Commission. It shall serve as the single state planning agency for purposes of federal anti-crime and related programs.

(b) Administrative responsibilities shall include, but are not limited to the following:

- (1) Compiling data, establishing needs and setting priorities for funding and policy recommendations for the Governor's Crime Commission;
- (2) Preparing and revising programs, policies, proposed legislation and such plans which may be required by state or federal grant programs for adoption by the Governor's Crime Commission, which are designed to improve the administration of criminal justice and to reduce crime in North Carolina;
- (3) Advising state and local interests of opportunities for securing federal assistance for crime reduction and for improving criminal justice administration and planning within the State of North Carolina;
- (4) Stimulating and seeking financial support from federal, state, and local government and private sources for programs and projects which implement adopted criminal justice administration improvement and crime reduction plans;
- (5) Assisting state agencies and units of general local government and combinations thereof in the preparation and processing of applications for financial aid to support improved criminal justice administration, planning and crime reduction;
- (6) Encouraging and assisting coordination at the federal, state and local government levels in the preparation and implementation of criminal justice administration improvements and crime reduction plans;

- (7) Applying for, receiving, and disbursing funds received for the programs for criminal justice administration, planning and crime reduction purposes;
- (8) Entering into, monitoring, and evaluating the results of contracts and agreements necessary or incidental to the discharge of its assigned responsibilities;
- (9) Providing technical assistance to state and local law enforcement agencies in developing programs for improvement of the law enforcement and criminal justice system; and
- (10) Taking such other actions as may be deemed necessary or appropriate to carry out its assigned duties and responsibilities.

*Statutory Authority G.S. 143B-477.*

**.0108 GOVERNOR'S CRIME COMMISSION: ORGANIZATION**

(a) The Governor's Crime Commission of the Department of Crime Control and Public Safety consists of 40 members, including the Governor. The composition of the 40 members is established by G.S. 143B-478.

(b) The Chairman of the Governor's Crime Commission shall have the authority to establish such ad hoc committees from the membership of the commission as may be necessary or appropriate to further the commission's objectives.

*Statutory Authority G.S. 143B-478; 143B-480.*

**.0109 GOVERNOR'S CRIME COMMISSION DIVISION: ADDRESS**

The Governor's Crime Commission Division may be contacted at the following address:

Executive Director

Governor's Crime Commission Division  
P. O. Box 27687, 430 N. Salisbury St. (Dobbs Building)  
Raleigh, North Carolina 27611-7687

*Statutory Authority G.S. 143B-10(b); 143B-477.*

**SECTION .0200 - GRANT PREAPPLICATION PROCESS**

**.0204 NOTICE OF AVAILABILITY OF FUNDS**

Within 90 days of notice to the division of availability of grant funds, the executive director will contact eligible grantees announcing the availability of such funds, and outlining the preapplication process.

*Statutory Authority G.S. 143B-477; 143B-479.*

**.0205 CONSISTENCY WITH STATE OR FEDERAL GRANT PROGRAMS**

To be considered for funding, a preapplication must be for a project whose objectives are consistent with the objectives and guidelines set forth in a state or federal grant program and relevant plan as may have been approved by the Governor's Crime Commission. Any such plans shall be available for public inspection at the offices of the Governor's Crime Commission Division, and will contain the types of programs anticipated with program and project goals and objectives.

*Statutory Authority G.S. 143B-477; 143B-479.*

**.0206 REQUEST FOR PREAPPLICATION FORMS**

Interested applicants should request a "Pre-application Form" from the division.

*Statutory Authority G.S. 143B-477; 143B-479.*

**.0207 GRANT PREAPPLICATION FORM**

The preapplication form contains the following elements which must be completely addressed in accordance with the appropriate state or federal grant program guidelines, and/or relevant plan, and preapplication instructions:

- (1) general administrative information,
- (2) problems addressed by proposed project,
- (3) project operation,
- (4) detailed budget narrative and budget summary,
- (5) original signature of authorizing official,
- (6) additional supporting material as may be requested.

*Statutory Authority G.S. 143B-477; 143B-479.*

**.0208 PREAPPLICATION SUBMISSION PROCEDURES**

(a) All applicants must submit the original and two copies of the preapplication form.

(b) Preapplications must be submitted by hand-delivery, or by certified or registered mail, postage prepaid, return receipt requested.

(c) Preapplications must be hand-delivered or postmarked to the Governor's Crime Commission Division on or before February 15 of each year, or on such other date as may be announced in the Notice of Availability of Funds.

*Statutory Authority G.S. 143B-477; 143B-479.*



**.0209 INCOMPLETE PREAPPLICATIONS**

If a preapplication is found to be incomplete, the Executive Director of the Division or his designee may:

- (1) reject the preapplication; or
- (2) contact the applicant to obtain additional information or corrections.

*Statutory Authority G.S. 143B-477; 143B-479.*

**.0210 REVIEW OF PREAPPLICATIONS**

(a) Major factors in deciding which preapplicants shall be designated eligible grantees, as determined by the Executive Director of the Governor's Crime Commission Division, are:

- (1) completion of all requirements set forth in these Rules;
- (2) sufficiency of documentation of the problem and project operation;
- (3) detailed budget narrative and budget summary; and
- (4) other factors that may be contained in the relevant plan, if any.

(b) The Executive Director of the Governor's Crime Commission Division or his designee shall score each preapplication using an objective rating scale.

(c) The commission or the relevant committee shall then review the preapplications and a summary of the ratings, and shall recommend to the secretary which preapplicants should be determined to be eligible to submit complete applications for grant awards. The secretary shall then decide which preapplicants will be eligible to submit grant applications.

*Statutory Authority G.S. 143B-477; 143B-479.*

**.0211 NOTIFICATION TO PREAPPLICANTS**

The executive director or his designee shall notify the preapplicants, in writing, within 60 days of the date on which preapplications are due, as to whether their preapplications have been approved and they have been designated as eligible grantees, or rejected. However, final approval and funding is contingent upon successful completion of the application process and receipt by the Governor's Crime Commission Division of state or federal grant program funds.

*Statutory Authority G.S. 143B-477; 143B-479.*

**SECTION .0300 - GRANT APPLICATION  
PROCESS AND ADMINISTRATION**

**.0308 APPLICATION FORM AND  
REQUIREMENTS**

(a) Once preapplicants have been notified that their preapplications have been approved and they have been designated as eligible grantees, they must submit an application form. Applicants must use the application form entitled "Governor's Crime Commission Grant Application", which will be provided by the division.

(b) Any changes required by the federal or state governmental authorities in matching ratios, policies, rules, or procedures, as contained in the current issue of these Rules, the relevant state or federal grant program and related guidelines, shall be considered to be in effect at the time of their approval. Such changes shall be published in the next publication of the application form.

*Statutory Authority G.S. 143B-477; 143B-479.*

**.0309 APPLICATION SUBMISSION  
PROCEDURES**

(a) All applicants must submit the original application and one copy to the Governor's Crime Commission Division.

(b) Non-governmental agencies must provide for a unit of local or state government to serve as the project grantee and submit the proper number of copies as outlined in (a) of this Rule.

(c) Applications must be submitted by hand-delivery, or by certified or registered mail, postage prepaid, return receipt requested.

*Statutory Authority G.S. 143B-477; 143B-479.*

**.0310 APPLICATION DUE DATE**

(a) Applications must be hand-delivered or postmarked to the Governor's Crime Commission Division on or before April 15 of each year, or on or before such other date as may be announced in the Notice of Availability of Funds.

(b) Upon written request of and approval by the executive director or his designee, the deadline for submitting an application may be extended for up to 60 days after the announced deadline date. If the application is not received within the approved extension period, the preapplicant forfeits eligible grantee status and loses funding for the program identified in the preapplications.

*Statutory Authority G.S. 143B-477; 143B-479.*

**.0311 GRANT APPLICATION PROCESS**

(a) Grant applications requesting a total of less than two thousand dollars (\$2,000) in fed-

eral funds will not be accepted, unless otherwise specified in the Notice of Availability of Funds.

(b) Applications are reviewed by the executive director or his designee. Applications must adhere to the guidelines for the appropriate state or federal grant program and include the following elements, as described in the application instructions:

- (1) general administrative information;
- (2) problems addressed by proposed project;
- (3) a goal statement, measurable objectives of the project and project activities;
- (4) project operation;
- (5) monitoring and evaluation criteria for the project;
- (6) detailed budget description including a budget narrative, budget summary, and matching funds information;
- (7) a list of grant conditions which must be agreed to by an authorizing official of the applicant;
- (8) a certification of non-supplanting;
- (9) a plan for assumption of project costs on a continuing basis by the applicant;
- (10) a statement of consent authorizing certain services or outlays made by other agencies to be charged against funds which could be used by local units of government if appropriate, (and if applicable);
- (11) a certification of filing of an equal employment opportunity program;
- (12) a certification of filing of an environmental evaluation (if applicable);
- (13) a certification of submission of application to the state budget officer (state agencies only);
- (14) memorandum of agreement or contract with local governmental unit (private, non-profit programs only);
- (15) original signatures of authorizing official, implementing project director, and applicant's chief financial officer; and
- (16) agreement to submit annual audit of program.

(c) Applications for first year funds of an approved two year project should be made according to the procedures set out in .0311(b) of these Rules for one year grants, except the measurable objectives and activities sections, the project operation section, and the monitoring and evaluation section must be written to cover the entire approved grant period. These objectives and activities and operations sections will then serve to guide the projects throughout the duration of their grant periods.

Applicants must also submit two one-year budgets.

(d) If an application is found to be incomplete, the executive director or his designee will send written notice to the applicant specifically noting the deficiencies. Such notice will indicate the date the grant application was received and the date it was returned. When any applicant has been requested to correct a deficiency in any application, but has failed to do so within 30 days of such notification, that applicant's eligibility will be forfeited, and those funds will be reallocated. However, forfeiture will not occur if the applicant makes a written request for extension (of not more than 45 days), and the request is approved by the executive director.

*Statutory Authority G.S. 143B-477; 143B-479.*

#### **.0312 GRANT PERIOD**

Projects will be assigned a grant period of up to two years, and, whenever possible, the grant's ending date shall coincide with the close of the grantee's fiscal year.

*Statutory Authority G.S. 143B-477; 143B-479.*

#### **.0313 TWO YEAR LIMITATION ON FEDERAL FUNDING**

Grantees may receive up to two years of funding on a project, at such ratios of federal funds to matching state or local funds as may be specified by each particular federal grant program or relevant guidelines. The two-year funding limit applies even if a project receives funds from more than one federal criminal justice block grant source during that time.

*Statutory Authority G.S. 143B-477; 143B-479.*

#### **.0314 GRANT AWARD CONTRACTS**

Grant award contracts, bearing the original signatures of the grantee's authorizing official and the executive director, must be returned by the grantee to the Governor's Crime Commission Division within 30 days of mailing. No alterations of any kind may be made on this contract.

*Statutory Authority G.S. 143B-477; 143B-479.*

#### **.0315 INDIRECT COSTS**

Indirect costs (including, but not limited to, any costs of administering the project) are not allowable expenditures for any grant awarded with federal criminal justice block grant funds.

*Statutory Authority G.S. 143B-477; 143B-479.*

**.0316 DISALLOWED COSTS**

Due to the administrative costs involved in processing a refund from grantees, disallowed federal costs may not be required to be refunded. All questioned and/or disallowed costs for any amount must be fully explained in the auditor's report; however, it is the executive director's responsibility to decide if a refund is required, based on the reasons for the disallowed costs.

*Statutory Authority G.S. 143B-477; 143B-479.*

**.0317 CONTINUATION FUNDS**

(a) In order to apply for second year continuation funds, grantees must submit a Cumulative Progress Report, and either a full Grant Application or a Subgrant Adjustment Request.

(b) The executive director or his designee will review the request for continuation funds based on the grantee's documentation of satisfactory grant performance. The applicant will be notified in writing of approval or rejection of the request for continuation funds.

*Statutory Authority G.S. 143B-477; 143B-479.*

**.0318 ADJUSTMENTS TO GRANTS**

Requests for adjustments (regarding budget, program, and personnel, for example) to approved applications may be made at any time up to 90 days before the project's scheduled termination date by using the Subgrant Adjustment Form and providing sufficient explanation for the proposed amendments.

*Statutory Authority G.S. 143B-477; 143B-479.*

**SECTION .0400 - PENALTIES**

**.0406 GRANT TERMINATION OR SUSPENSION**

(a) A grant may be terminated or fund payments suspended by the executive director, where he or she finds a failure to comply with the terms and conditions of the:

- (1) grant award contract;
- (2) grant application;
- (3) guidelines promulgated by the relevant federal criminal justice block grant program or approved plan; or
- (4) a failure to submit the Notice of Implementation to the division.

(b) Upon such finding, the executive director shall notify the grantee in writing and provide the grantee opportunity to correct any noted

deficiencies found within 20 days. If said deficiencies are not corrected within this period the executive director may suspend payments or cancel the grant after furnishing written notice to the grantee.

*Statutory Authority G.S. 143B-477; 143B-479.*

**.0407 LOSS OF GRANTEE ELIGIBILITY**

Any grantee who refuses to honor or otherwise fails to meet in whole or in part any standard or special condition associated with an accepted grant award, whether written and appended to that grant by the executive director, or which is a part of any section or attachment to the grant application form completed and submitted by that agency, or which is contained in a federal criminal justice block grant program or guidelines or approved plan, will be declared ineligible to receive any grant award until the offending grantee has completely satisfied its obligations to the satisfaction of the secretary or his designee and the chairman of the appropriate committee.

*Statutory Authority G.S. 143B-477; 143B-479.*

**SECTION .0500 - APPEAL**

**.0504 APPEAL**

Any persons aggrieved by an adverse decision may be entitled to appeal for a hearing in accordance with Chapter 150B of the General Statutes.

*Statutory Authority G.S. 150B-2; 150B-23.*

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*Notice is hereby given in accordance with G.S. 150B-12 that the Department of Crime Control and Public Safety - Victim and Justice Services Division intends to adopt regulations cited as 14A NCAC 11 .0501 - .0506.*

*The proposed effective date of this action is May 13, 1988.*

*The public hearing will be conducted at 10:00 a.m. on January 14, 1988 at Library, Second Floor, Archdale Building, Raleigh, NC, 512 North Salisbury Street.*

*Comment Procedures: Any interested person may present comments relevant to the action proposed at the public hearing either in written or oral form. Written statements not presented*



*at the public hearing may be directed prior to January 14, 1988 to the Administrative Procedures Coordinator, Second Floor, Archdale Building, 512 N. Salisbury Street, Raleigh, NC or P. O. Box 27687, Raleigh, NC 27611.*

**CHAPTER 11 - DIVISION OF VICTIM AND JUSTICE SERVICES**

**SECTION .0500 - CRIME VICTIMS COMPENSATION COMMISSION**

**.0501 ADMINISTRATION**

(a) The offices of the Crime Victims Compensation Commission are located in the Archdale Building, 512 North Salisbury Street, in Raleigh, North Carolina, 26711. The same office hours will be observed by the Crime Victims Compensation Commission as are or may be observed by other state offices in Raleigh.

(b) The commission will remain in continuous session subject to the call of the chairman to meet as a body for the purpose of transacting such business as may come before it.

(c) The use of any printed forms other than those approved and adopted by this commission is prohibited. Approved forms may be obtained from the commission.

*Statutory Authority G.S. 15B-3; 15B-6; S.L. 1987, c. 819, s. 35.*

**.0502 PROCESSING AND PAYMENT OF CLAIMS**

(a) An application for a claim will be accepted only when submitted on an approved form and a determination is made by the director that the application is complete.

(b) Claims will be processed in the order in which the completed applications are received, deliverable by United States mail. In any consideration of competing claims, with respect to priority order of processing, the filed date stamped on the claim shall be controlling.

(c) Every claim filed is subject to investigation by the director. Failure of the claimant to cooperate in the investigation may result in a denial of the claim or a reduction in the amount awarded.

(d) The director or the commission may reopen the investigation of any claim.

(e) The director will determine, from information supplied in the application and verified by investigation, the amount of an award to be paid, if any, for each claim. Awards which must be made by the commission will be docketed by the director for consideration by

the commission. The director shall notify the commission of all awards made or denied.

(f) The director shall make a recommendation for all awards that require approval by the commission. After reaching a decision to recommend that the commission approve an award, the director shall require the claimant to submit current collateral source information. After receipt of such information, the director shall notify the claimant of the recommended award amount and the date on which the claim will be considered by the commission.

(g) All awards requiring approval by the commission shall be docketed upon the commission's agenda by the director. The report of investigation and recommendation of the director for each claim to be considered shall be provided the commission in advance of the meeting. The commission shall decide whether to approve an award. If the award is approved, the commission shall determine an amount. Any award made by the commission may be reduced, prior to payment, by the director to the extent the award is or will be recouped from a collateral source.

(h) The director shall mail a written statement of the award decision to the claimant along with the check for the award, if any, within 15 days of the director's or the commission's decision or verification of current collateral source information, whichever occurs last. This written statement shall notify the claimant: whether this check is a partial or complete payment of the award; of any payments made directly to a service provider; and of appeal rights.

(i) Claims will be docketed for determination of payment in an order determined by the director.

(j) All payments of compensation must be made in strict accordance with the award issued by the director or the commission.

(k) A claimant who fails to cooperate with or supply requested information to the director or who supplies inaccurate or incomplete information may have the claim denied or the award reduced, in the discretion of the director or the commission.

(l) The claimant shall be required to inform the director at any time before or after the award of any action brought to recover damages for the criminally injurious conduct that is the basis of any claim or award and the availability of any collateral source. The failure to provide such information may be considered as fraud, allowing the director or the

commission to reduce or deny an award or to recover monies previously paid.

(m) All notifications and payments or other documents transmitted by mailing will be sent to the address submitted by the claimant. The claimant must notify the director in writing of any change of address.

*Statutory Authority G.S. 15B-6; 15B-7; 15B-8; 15B-10; 15B-11; S.L. 1987, c. 819, s. 35.*

#### **.0503 DETERMINING COMPENSATION**

(a) A claimant shall only be compensated for economic loss. Non-economic detriment shall not be compensated.

(b) Claims arising out of motor vehicle accidents or collisions shall be denied.

(c) The director and the commission shall use the fee schedule published by the Industrial Commission for medical, surgical, hospital, nursing, dental, and other treatment when determining an award. The commission or director may, in special hardship cases where sufficient reason is demonstrated, award fees in excess of this schedule.

*Statutory Authority G.S. 15B-4; 15B-6; 15B-7; 15B-8; 15B-10; 15B-11; S.L. 1987, c. 819, s. 35.*

#### **.0504 MEETINGS OF THE COMMISSION**

(a) The chairman of the commission shall preside at all meetings. In the absence of the chairman, the vice-chairman shall preside.

(b) At the direction of the chairman, the director may poll the members of the commission by telephone regarding any matter requiring the commission's attention at such times as it is not practicable for the members to meet as a body.

(c) Public notice of a meeting of the commission shall be provided as required by law. Any matter to be considered by the commission shall be docketed not less than 15 days prior to the date the commission is scheduled to meet.

(d) Any member of the commission may be represented by proxy at any meeting of the commission, having first notified the chairman of such representation.

*Statutory Authority G.S. 15B-3; 15B-6; S.L. 1987, c. 819, s. 35.*

#### **.0505 CONTESTED CASES**

(a) A claimant who is not satisfied with a decision by the director or the commission may appeal that decision by writing to the Of-

fice of Administrative Hearings. A copy of the appeal should be sent to the commission.

(b) After the director or the commission receives the recommended decision from the Office of Administrative Hearings, each party shall be mailed a notice providing at least 15 days to file exceptions to the recommended decision and to present written arguments to the director or to the commission. Further, the director or the commission may provide an opportunity for each party to make an oral presentation.

(c) A written statement of the final decision of the director shall be mailed to each party within 15 days of the time for receiving the written exceptions or oral presentation, whichever occurs first. A written statement of the final decision of the commission shall be mailed by the director within 15 days of the commission meeting during which the contested case is considered.

*Statutory Authority G.S. 15B-6; 15B-10; S.L. 1987, c. 819, s. 35.*

#### **.0506 AWARDS**

Acceptance of the amount awarded by the director or commission, evidence by endorsing or presenting the check for payment, shall be deemed a waiver of any further right to appeal or contest the amount or type of award. Provided, however, the director or the commission may award a partial payment to the claimant, the acceptance or presentment of which shall not be deemed to constitute a waiver of any further rights.

*Statutory Authority G.S. 15B-6; 15B-10; S.L. 1987, c. 819, s. 35.*

### **TITLE 15 - DEPARTMENT OF NATURAL RESOURCES AND COMMUNITY DEVELOPMENT**

*Notice is hereby given in accordance with G.S. 150B-12 that The Environmental Management Commission intends to amend regulation cited as 15 NCAC 2B .0311.*

*The proposed effective date of this action is July 1, 1988.*

*The public hearing will be conducted at 7:30 p.m. on January 27, 1988 at Old Moore County Courthouse, County Commissioner's Chambers, Courthouse Square, Carthage, North Carolina 28327.*

*Comment Procedures:* All persons interested in this matter are invited to attend. Comments, statements, data, and other information may be submitted in writing prior to, during, or within 30 days after the hearing or may be presented orally at the hearing. Oral statements may be limited at the discretion of the hearing officer. Submittal of written copies of oral statements is encouraged.

## CHAPTER 2 - ENVIRONMENTAL MANAGEMENT

### SUBCHAPTER 2B - SURFACE WATER STANDARDS: MONITORING

#### SECTION .0300 - ASSIGNMENT OF STREAM CLASSIFICATIONS

##### .0311 CAPE FEAR RIVER BASIN

(b) The Cape Fear River Basin Schedule of Classification and Water Quality Standards was amended effective:

- (1) March 1, 1977;
- (2) December 13, 1979;
- (3) December 14, 1980;
- (4) August 9, 1981;
- (5) April 1, 1982;
- (6) December 1, 1983;
- (7) January 1, 1985;
- (8) August 1, 1985;
- (9) December 1, 1985;
- (10) February 1, 1986;
- (11) July 1, 1987;
- (12) October 1, 1987;
- (13) July 1, 1988.

(c) The Schedule of Classifications and Water Quality Standards for the Cape Fear River Basin has been amended effective July 1, 1988 by the reclassification of Cane Creek (Crains Creek) [Index No. 18-23-16-(1)] from source to mouth of Beaver Creek including all tributaries from C to WS-III.

*Statutory Authority G.S. 143-214.1; 143-215.1; 143-215.3(a)(1).*

\*\*\*\*\*

*Notice is hereby given in accordance with G.S. 150B-12 that Coastal Management intends to amend regulations cited as 15 NCAC 70 .0101 - .0105; .0201 - .0202.*

*The proposed effective date of this action is April 1, 1988.*

*The public hearing will be conducted at 1:00 p.m. on January 19, 1988 at Archdale Building, Ground Floor Hearing Room, 512 N. Salisbury Street, Raleigh, NC.*

*Comment Procedures:* All persons interested in this matter are invited to attend the public hearing. The Coastal Management Division will receive written comments up to the date of the hearing. Any person desiring to present lengthy comments is requested to submit a written statement for inclusion in the record of proceedings at the public hearing. Additional information concerning the hearing or the proposals may be obtained by contacting Portia Rochelle, Division of Coastal Management, P.O. Box 27687, Raleigh, NC 27611-7687, (919) 733-2293.

## CHAPTER 7 - COASTAL MANAGEMENT

### SUBCHAPTER 70 - NORTH CAROLINA COASTAL RESERVE

#### SECTION .0100 - GENERAL PROVISIONS

##### .0101 STATEMENT OF PURPOSE

The principal purposes of the North Carolina Estuarine Sanctuary Coastal Reserve and supporting programs are to:

- (1) preserve estuarine coastal ecosystems representative of the various biogeographic regions and typologies in North Carolina and to make them available for continuous future study of the processes, functions, and influences which shape and sustain the estuarine coastal ecosystems;
- (2) provide new information on estuarine coastal ecosystem processes to decisionmakers as a basis for the promotion of sound management of coastal resources;
- (3) provide a focal point for educational activities that increase the public awareness and understanding of estuarine coastal ecosystems, effects of man on them, and the importance of the estuarine coastal systems to the state and the Nation;
- (4) accommodate traditional recreational activities, commercial fishing, and other uses of the Sanctuary Reserve as long as they do not disturb the Sanctuary Reserve environment and are compatible with the research and educational activities taking place there.



Statutory Authority G.S. 113-3; 113-8;  
143B-10.

**.0102 DEFINITIONS AS USED IN THIS  
SUBCHAPTER**

Definitions as used in this Subchapter are:

- (1) "Coastal Reserve" means those coastal land and water areas set aside to be maintained in their natural state for research, education and compatible recreation and enjoyment of natural and scenic beauty.
- (+)(2) "Estuary" means that part of a river or stream or body of water having unimpaired connection with the open sea, where sea water is measurably diluted with fresh water derived from land drainage.
- (-)(3) "Estuarine Sanctuary Research Reserve" means a group of areas or components, each of which may include all or the key land and water portion of an estuary and adjacent transitional areas and uplands, constituting to the extent feasible a natural unit, set aside as a natural field laboratory to provide long-term opportunities for research, education, and interpretation of the ecological relationships within the area. The Coastal Reserve includes the Estuarine Research Reserve.
- (4) "Reserve" means any area designated pursuant to this Subchapter.

Statutory Authority G.S. 113-3; 113-8;  
143B-10.

**.0103 RESPONSIBILITIES; DUTIES OF  
COASTAL RESERVE PROGRAM**

The ~~Estuarine Sanctuary~~ Coastal Reserve Program of the Division of Coastal Management shall be responsible for managing and protecting the North Carolina ~~Estuarine Sanctuary~~ Coastal Reserve; for promoting and coordinating research and educational programs at the components while allowing for compatible traditional uses; for maintaining a management plan for the ~~Sanctuary~~ Reserve; for maintaining cooperative agreements with scientific, educational, and resource management agencies and private citizens that will assist in the management of the ~~Sanctuary~~ Reserve; and for providing new information on ~~estuarine coastal~~ processes to coastal management decisionmakers.

Statutory Authority G.S. 113-3; 113-8;  
143B-10.

**.0104 STATE AND LOCAL COASTAL  
RESERVE ADVISORY COMMITTEES**

Advisory committees shall be established ~~both for the entire Sanctuary Program and for each individual Sanctuary Reserve component.~~ The committees shall advise the ~~Sanctuary manager~~ Reserve coordinator. Members of the committees shall include researchers, educators, managers, and citizens that use or are affected by the ~~Sanctuary~~ Reserve. The committees shall be appointed by the Secretary of the Department of Natural Resources and Community Development.

Statutory Authority G.S. 113-3; 113-8;  
143B-10.

**.0105 RESERVE COMPONENTS**

The North Carolina ~~Estuarine Sanctuary~~ Coastal Reserve includes the following components:

- (1) Zeke's Island
- (2) Rachel Carson
- (3) Currituck Banks
- (4) Masonboro Island
- (5) Permuda Island
- (6) Buxton Woods

The North Carolina National Estuarine Research Reserve includes components (1)-(4).

Detailed boundary maps for each component ~~of the Sanctuary~~ are maintained and available for inspection at the Division of Coastal Management, 512 North Salisbury Street, Raleigh, North Carolina.

Statutory Authority G.S. 113-3; 113-8;  
143B-10.

**SECTION .0200 - MANAGEMENT: USE AND  
PROTECTION OF THE NORTH CAROLINA  
COASTAL RESERVE**

**.0201 MANAGEMENT PLAN**

The Division of Coastal Management shall prepare a management plan for the ~~Sanctuary~~ Reserve. The management plan shall contain specific policies for research, education, and traditional uses at each component. The Secretary of the Department of Natural Resources and Community Development shall approve the management plan and its revisions. The Division of Coastal Management shall monitor and manage the components and report to the secretary violations of the approved plan and any other situations that may be harmful to the natural resources of the ~~Sanctuary~~ Re-  
serve.

## PROPOSED RULES

Statutory Authority G.S. 113-3; 113-8; 143B-10.

### .0202 RESERVE USE REQUIREMENTS

The following use requirements shall apply to all of the components of the ~~Sanctuary~~ Reserve:

- (1) The essential natural character of the ~~Sanctuary~~ Reserve shall be maintained.
- (2) Traditional recreational uses within each component shall be allowed to continue as long as the activities do not disrupt the natural integrity of the ~~Sanctuary~~ Reserve or any research or educational projects. Incompatible traditional uses shall include:
  - (a) fishing, hunting, or trapping activities not allowed by state regulations;
  - (b) target shooting;
  - (c) hydraulic clam dredging within ~~Sanctuary~~ Reserve boundaries; and
  - (d) use of vehicles off designated corridors at components where vehicles are allowed for upland transportation according to the management plan; and
  - (e) production of noise disruptive to local wildlife and the aesthetic enjoyment of the reserve as a natural area.
- (3) No user shall disturb a research project or research equipment in place at the ~~Sanctuary~~ Reserve.
- (4) Camping or any form of habitation, whether on the uplands, wetlands, or waters within ~~Sanctuary~~ Reserve boundaries, shall not be allowed without the written permission of the Division of Coastal Management.
- (5) Personal property not authorized by the management agency may not be placed within the boundaries of the ~~Sanctuary~~ Reserve for more than two consecutive days.
- (6) Users of the ~~Sanctuary~~ Reserve shall not disturb or remove any live animals, except those allowed by state hunting and fishing regulations as they apply to the ~~Sanctuary~~ Reserve, or vegetation within the ~~Sanctuary~~ Reserve unless such action is part of a research or educational project approved by the management agency.
- (7) Persons wishing to engage in scientific research or collection of natural materials within the ~~Sanctuary~~ Reserve shall first secure written permission from the management agency.
- (8) No activity shall be allowed which might pollute any stream or body of water in the

~~Sanctuary~~ Reserve. Acts of pollution shall include:

- (a) Deposition of solid materials not indigenous to the local ~~estuarine coastal~~ ecosystem; and
- (b) Discharge of liquids other than uncontaminated estuarine water.
- (9) No other acts or uses which are detrimental to the maintenance of the property in its natural condition shall be allowed including, but not limited to, disturbances of the soil, mining, commercial or industrial uses, timber harvesting, ditching and draining, deposition of waste materials.

Statutory Authority G.S. 143B-10.

\* \* \* \* \*

*Notice is hereby given in accordance with G.S. 150B-12 that the North Carolina Wildlife Resources Commission intends to amend regulations cited as 15 NCAC 10B .0202(a)(2), (3), (4) and (5); .0203(b), (d) and (e); .0209(a); 10C .0304; .0305; .0401(b); .0402; .0404; .0406; .0407; 10D .0002(c) and (f); .0003(c) and (d); .0004(b)(4)(A).*

*The proposed effective date of this action is July 1, 1988.*

*The public hearing will be conducted at 7:00 p.m. on the following dates and at the following locations:*

*February 8, 1988, District 2, New Bern, Courthouse;*

*February 9, 1988, District 1, Edenton, Old Courthouse;*

*February 10, 1988, District 3, Nashville, Courthouse;*

*February 11, 1988, District 4, Elizabethtown, Courthouse;*

*February 12, 1988, District 5, Graham, Courthouse;*

*February 15, 1988, District 6, Albemarle, North Stanley High School;*

*February 16, 1988, District 9, Asheville, Courthouse;*

*February 17, 1988, District 8, Morganton, Civic Center Auditorium;*

*February 18, 1988, District 7, Elkin, High School.*

*Note: ALL Public Hearings begin at 7:00 p.m.*

*Comment Procedures: Interested persons may present their views either orally or in writ-*

ing at the hearing. In addition, the record of hearing will remain open for receipt of written comments from December 20, 1987, to 5:00 p.m. on January 27, 1988. Such written comments must be delivered or mailed to the Wildlife Resources Commission, 512 N. Salisbury Street, Raleigh, NC 27611.

# CHAPTER 10 - WILDLIFE RESOURCES AND WATER SAFETY

## SUBCHAPTER 10B - HUNTING AND TRAPPING

### SECTION .0200 - HUNTING

#### .0202 BEAR

- (a) Open Seasons
- (2) Second Monday in November to the following Saturday in Beaufort, Gates, Hyde, Jones, and Pamlico Pamlico, Tyrrell and Washington Counties; and in that part of Bertie County southeast of US 17.
- (3) Second Monday in November to the following Wednesday in Hyde County;
- (4) ~~(3)~~ Second Monday in November to January 1 in Bladen, Carteret, Duplin, New Hanover, Onslow and Pender Counties; in that part of Cumberland County south of NC 24 and east of the Cape Fear River; and in that part of Sampson county south of NC 24.
- (5) ~~(4)~~ Second Monday in December to January 1 in Brunswick and Columbus Counties.

Statutory Authority G.S. 113-134; 113-291.2; 113-291.7; 113-305.

#### .0203 DEER (WHITE-TAILED)

- (b) Open Seasons (All Lawful Weapons)
- (1) Male Deer With Visible Antlers. Male deer with antlers or spikes protruding through the skin, as distinguished from knobs or buttons covered by skin or velvet, may be taken during the following seasons:
- (B) Monday of Thanksgiving week to second Saturday after Thanksgiving Day in the following counties and parts of counties:

Alexander	Iredell
Alleghany	Lincoln
Ashe	Stokes
Catawba	Surry
Davie	Wilkes
Forsyth	Yadkin
Gaston	

Lincoln: All of the county except that part east of US 324 and west of NC 27, SR 1360, SR 1340 and SR 1371.

Mecklenburg: That part west of I-77, south of NC 73, east of the Catawba River, and north of NC 16 and SR 2004, except Cowan's Ford Waterfowl Refuge.

- (2) Deer of Either Sex. Deer of either sex may be taken during the open seasons and in the counties and portions of counties listed below:
  - (A) ~~Four consecutive periods of Friday and Saturday beginning with the second Friday in October~~ The open either-sex deer hunting dates established by the U.S. Fish and Wildlife Service during the period from the first Saturday in October to January 1 in those parts of Hyde and Washington Counties known as the Pungo National Wildlife Refuge.
  - (B) The open either-sex deer hunting dates established by the appropriate military commands during the period from Monday on or nearest October 15 to January 1 in that part of Brunswick County known as the Sunny Point Military Ocean Terminal, in that part of Craven County known and marked as Cherry Point Marine Base, in that part of Onslow County known and marked as the Camp Lejeune Marine Base, and on Fort Bragg Military Reservation in the counties of Cumberland, Hoke and Moore, and on Camp Mackall Military Reservation in the counties of Moore, Richmond and Scotland.
  - (C) ~~October 23, 24, 30, 31 and November 6, 7, 11, 13, 14, 20, 21~~ The open either-sex deer hunting dates established by the U.S. Fish and Wildlife Service during the period from the Monday on or nearest October 15 to January 1 in those parts of Camden, Gates and Pasquotank Counties known as the Dismal Swamp National Wildlife Refuge,
  - (D) ~~October 1-31 with bow and arrow only and November 7, 11, 13, 14, 20, 21~~ in those parts of Anson and Richmond Counties known as the Pee Dee National Wildlife Refuge, and
  - (E) ~~October 20-24 with bow and arrow only and October 31 and November 4, 5, 6, 7, 9, 10~~ in that part of Currituck County known as the Mackay Island National Wildlife Refuge.



(D) ~~(F)~~ Wednesday of the week following Thanksgiving in all of Catawba, Cleveland, ~~Iredell~~, Forsyth, Rutherford and ~~Surry~~, Yadkin Counties; in all of ~~Alexander~~, Alleghany, Ashe, Burke, Caldwell, ~~Davie~~, Stokes and ~~Wilkes~~, McDowell Counties except on game lands.

(E) ~~(G)~~ Wednesday and Thursday of the week following Thanksgiving in all of ~~Pitt County~~, Iredell and Surrey Counties and in the following parts of counties:

Alexander: All of the county except game lands.

Beaufort: That part northwest of a boundary formed by NC 32, US 264 and US 47.

Carteret: All of the county except game lands.

Craven: That part bounded on the south by SR 1005, on the east by SR 1243, SR 1401, SR 1400 and SR 1440, and on the north by NC 43.

Davie: All of the county except game lands.

Lenoir: That part south of the Neuse River.

Pamlico: All of the county except game lands.

Pasquotank: All of the county except Dismal Swamp National Wildlife Refuge.

Robeson: That part east of a boundary formed by SR 1004, NC 41, NC 211, SR 1620, SR 2225, NC 130 and NC 41.

Stokes: All of the county except game lands.

Wayne: That part south of US 70.

Wilkes: All of the county except game lands.

(F) ~~(H)~~ Wednesday to Saturday of the week following Thanksgiving in all of Alamance, Caswell, Chatham, Durham, Franklin, Granville, ~~Martin~~, Greene, Orange, Person, ~~Pitt~~, Rockingham and Vance Counties and in the following parts of counties:

Anson: All of the county except game lands and the Pee Dee National Wildlife Refuge.

Cabarrus: That part east of US 52.

Currituck: That part east of the Intra-coastal Waterway, All of the county except the Outer Banks and the Mackay Island National Wildlife Refuge.

Davidson: That part south of I-85, except game lands.

Edgecombe: That part south of US 64.  
Guilford: That part north of a boundary formed by I-40 and I-85.

Lenoir: That part west of NC 11.

Moore: That part south of NC 211, except game lands.

Nash: That part north of US 64.

Perquimans: That part south of US 17 and east of Perquimans River.

Randolph: That part south of US 64 and west of US 220, except on game lands.

Richmond: That part east of Little River, except game lands.

Rowan: That part south of I-85 and east of US 52, except game lands.

Sampson: That part north of a boundary formed by US 701, SR 1157, SR 1004 and SR 1926, and south of a boundary formed by SR 1214 and NC 24.

Stanly: All of the county except game lands.

Wake: That part north of NC 54 west of Raleigh and north of US 70 east of Raleigh.

Washington: That part west of NC 32 and south of US 64.

Wayne: That part south of US 70.

(G) ~~(I)~~ Wednesday of the week following Thanksgiving to Saturday of next succeeding week in all of Duplin, ~~Halifax~~, ~~Northampton~~, Martin, Pitt and Warren Counties and in the following parts of counties:

Anson: All of the county except game lands and the Pee Dee National Wildlife Refuge.

Beaufort: That part southeast of the boundary formed by NC 32, US 264 and US 47, All of the county except on game lands.

Bladen: All of the county except on game lands.

Brunswick: That part north and east of a line formed by US 17, NC 211, and the Lockwood Folly River.

Cabarrus: That part east of US 52.

Carteret: All of the county except game lands.

Chowan: That part north of US 17.

Columbus: That part east of US 701, NC 130, SR 1157, SR 1141, SR 1139, SR 1118, SR 1108 and SR 1104.

Craven: All of the county except game lands. ~~and except that part bounded on the south by SR 1005, on the east by SR 1243, SR 1401, SR 1400 and SR 1440, and on the north by NC 43.~~

Davidson: That part south of I-85, except on game lands.

Edgecombe: That part north of US 64.

Hyde: All of the county except Pungo National Wildlife Refuge.

Johnston: That part south of US 70 and east of I-95.

Jones: All of the county except game lands.

Lenoir: That part east of NC 11.

Montgomery: All of the county except on game lands.

New Hanover: That part north of US 74.

Onslow: All of the county except game lands.

Perquimans: All of the county except that part south of US 17 and east of Perquimans River.

Richmond: That part west of Little River, except Pee Dee National Wildlife Refuge.

Rowan: That part south of I-85 and east of US 52, except on game lands.

Sampson: That part south of ~~a boundary formed by US 701, SR 1157, SR 1004 and SR 1026.~~ NC 24.

(II) Monday of Thanksgiving week to the third Saturday after Thanksgiving Day in that part of Buncombe County east of NC 191, south of the French Broad and Swannanoa Rivers, west of US 25, and north of SR 3503, NC 280 and SR 3501.

(I) ~~(J)~~ Wednesday of the week following Thanksgiving to January 1 Saturday of the next succeeding week and the last three days of the regular gun season for deer in all of Bertie, Halifax, Chowan and Hertford and Northampton Counties, and in the following parts of counties:

Chowan: That part south of US 17.

Gates: All of the county except Dismal Swamp National Wildlife Refuge.

Pender: All of the county except game lands.

(d) Open Seasons (Muzzle-Loading Rifles and Shotguns)

(2) Restrictions

(A) Only male deer with visible antlers may be taken during the muzzle-loading firearms seasons, except for the antlerless deer authorized to be taken without substitution by Subparagraph (2) of Paragraph (e) of this Rule.

(B) Dogs may not be used for hunting deer during the muzzle-loading firearms seasons.

(C) Pistols may not be carried while hunting deer during the muzzle-loading firearms seasons.

(e) Bag Limits

(2) Antlerless Deer. Where antlerless deer may be lawfully taken, a maximum of two antlerless deer may be substituted for an equal number of antlered deer in the limits contained in Subparagraph (1) of this Paragraph, and one additional antlerless deer is permitted without substitution when taken during an either-sex season ~~in a county or part of county included in Part (A) of Subparagraph (b)(1) of this Rule.~~ or during a bow and arrow or muzzle-loading firearm season for deer in an area have a later gun either-sex season. Antlerless deer include males with knobs or buttons covered by skin or velvet as distinguished from spikes protruding through the skin.

*Statutory Authority G.S. 113-134; 113-270.3; 113-276.1; 113-291.1; 113-291.2.*

#### .0209 WILD TURKEY (BEARDED TURKEYS ONLY)

(a) Open Season: Second Saturday in April to Saturday of the fourth week thereafter on bearded turkeys only, except there is no open season in the counties of Alexander, Anson, Brunswick, ~~Chowan,~~ Davidson, Davie, Forsyth, Harnett, Hertford, ~~Hoke, Mitchell, Iredell,~~ Perquimans, Polk, Randolph, Rowan, Rutherford and Scotland, and in the following portions of counties:

Bertie: That part north of US 17 and east of US 13.

Bladen: That part east of NC 53 and west of NC 210.

~~Brunswick: That part north of US 74.~~

Cherokee: That part south of SR 1505 and US 19-129 and north of US 64.

Columbus: That part north of NC 87.

Craven: That part west of US 70, BUS 70 and NC 55 east of New Bern.

Cumberland: That part north and west of US 401.

Graham: That part west of NC 28, south of SR 1242, east of US 129 and north of NC 143.

Halifax: That part east of I-95, south of NC 903 and west of NC 258.

Harnett: That part south of US 421 and west of US 401.

Haywood: That part south of US 23 and that part south and west of I-40.

Henderson: That part east of I-26.

Hoke: That part north and east of NC 211.

Jackson: That part south of US 23 and east of NC 107 and NC 281.

Johnston: That part east of I-95.

Jones: That part west of US 47, north and west of a boundary formed by SR 1105 and NC 58 to Maysville and west of US 17 south of Maysville.

Lee: That part south of US 421 and east of US 1.

Madison: That part north of a boundary formed by NC 208, NC 212 and SR 1434.

Montgomery: That part north of NC 24-27.

Moore: That part south of NC 211 and east of US 1.

Pender: That part south of NC 210.

Randolph: That part north of US 64 and west of US 220.

Richmond: That part east of US 220 and north of US 74, and that part west of US 109.

Transylvania: That part north of US 64, east of NC 281 and west of NC 215.

Watauga: That part south of US 421 and east of US 321.

Wilkes: That part south of US 421, and north of NC 268.

Note: No open season in Gates County by local law.

Statutory Authority G.S. 113-134; 113-270.3; 113-276.1; 113-291.2.

## SUBCHAPTER 10C - INLAND FISHING REGULATIONS

### SECTION .0300 - GAME FISH

#### .0304 TAKING AND POSSESSION OF INLAND GAME FISHES

It is unlawful to take in one day more than the daily creel limit of those species of inland game fish having a specified creel limit; to possess more than the daily creel limit while fishing, boating or afield; or to possess at any place more than three days creel limit. It is unlawful to possess any fish smaller than the minimum size limit or to destroy unnecessarily

any inland game fish taken from public fishing waters.

No person while fishing or boating shall behead, fillet, or otherwise mutilate or change the appearance of any game fish so as to obscure its species or render it impracticable to measure its total original length or count the number of such fish in possession.

Statutory Authority G.S. 113-134; 113-292.

#### .0305 OPEN SEASONS: CREEL AND SIZE LIMITS

(a) Generally. Subject to the exceptions listed in Paragraph (b) of this Rule, the open seasons and creel and size limits are as indicated in the following table:

GAME FISHES	DAILY CREEL LIMITS
Mountain Trout (All Species)	7 (exceptn. 3)
Muskellunge and Tiger Musky	2
Chain Pickerel (Jack)	None (exceptn. 1)
Walleye	8 (exceptn. 9 & 10)
Black Bass: Largemouth	8 (exceptn. 8 & 10)
Smallmouth & Spotted	8 (exceptn. 8 & 10)
White Bass	25 (exceptn. 1)
Sea Trout (Spotted or Speckled)	None
Striped Bass and their hybrids (Morone Hybrids)	8 aggregate (exceptns. 4, 6 & 12) (1 & 6)
Kokanee Salmon	7
Panfishes	None (exceptn. 5)
NONGAME FISHES	None



SIZE LIMITS	(EXCPTN. 2)
None (excpn. 3)	All year, except March 1 to 1/2 hr. before sunrise on first Saturday in April (excpn. 2 & 3)
30 in.	ALL YEAR
None	ALL YEAR
None (excpn. 9)	ALL YEAR
14 in. (excpn. 4, 8 & 11)	ALL YEAR
12 in. (excpn. 4, 8 & 11)	ALL YEAR
None	ALL YEAR
None	ALL YEAR
16 in. (excpn. 4, 12 & 13) (1 & 12)	ALL YEAR
None	ALL YEAR
None	ALL YEAR (excpn. 5)
None	ALL YEAR (excpn. 7)

(b) Exceptions

- (1) In accordance with the Virginia-North Carolina reciprocal agreement, the creel limit is eight for chain pickerel (jack) and eight for white bass in the Staunton River east of the mouth of Difficult Creek, the Dan River east of the Brantly Steam Plant Dam at Danville, Kerr and Gaston Reservoirs including all tributary waters lying in either Virginia or North Carolina which are accessible by boat from the main bodies of the reservoirs, and the Island Creek subimpoundment. In the Dan River upstream from its confluence with Bannister River to the Brantly Steam Plant Dam, and in John H. Kerr, Gaston, and Roanoke Rapids Reservoirs, the creel limit on striped bass and

Morone hybrids is four in the aggregate and the minimum size limit is 20 inches.

- (6) In the inland fishing waters of the coastal rivers and their tributaries extending upstream to the first impoundment, or to the headwaters if unimpounded, the daily creel limit for striped bass and their hybrids is three fish.

- (12) ~~There is no daily creel limit or minimum size limit for Morone hybrids in the following waters:~~

- (A) Salem Lake in Forsyth County;  
(B) Lake Fisher in Cabarrus and Rowan Counties;  
(C) Lake Thom-A-Lex in Davidson County;  
(D) All waters within the counties of Alamance, Chatham, Durham, Guilford, Lee, Orange, Rockingham and Wake.

- (12) (13) In all impounded inland waters and their tributaries, except those waters described in Exceptions (1) and (12), Exception (1), the daily creel limit of striped bass and their hybrids may include not more than two fish of smaller size than the minimum size limit.

Statutory Authority G.S. 113-134; 113-292; 113-304; 113-305.

SECTION .0400 - NONGAME FISH

.0401 MANNER OF TAKING NONGAME FISHES: PURCHASE AND SALE

- (b) Nongame fishes taken by hook and line methods or by licensed special devices licensed for nonpersonal use as provided by Paragraph (c) of Rule .0404 of this Section may be bought and sold.

Statutory Authority G.S. 113-134; 113-272; 113-292.

.0402 TAKING BAIT FISHES AND FISH BAIT

It is unlawful to take bait fishes in the inland waters of North Carolina using equipment other than:

- (1) a net of dip net design not greater than six feet across;
- (2) a seine of not greater than 12 feet in length and with a bar mesh measure of not more than one-fourth inch;
- (3) a cast net ~~not exceeding 10 feet in diameter~~ and with a square mesh of not more than three-eighths inch;
- (4) minnow traps not exceeding 12 inches in diameter and 24 inches in length,

with funnel openings not exceeding one inch in diameter, and which are under the immediate control and attendance of the individual operating them.

Game fishes and their young taken while netting for bait shall be immediately returned unharmed to the water. No person shall take more than 200 bait fish from inland fishing waters during one day. It is unlawful to take bait fishes or fish bait from designated public mountain trout waters.

*Statutory Authority G.S. 113-134; 113-272; 113-292.*

#### .0404 SPECIAL DEVICE FISHING

(a) Generally. Bow and Arrow. The special device fishing licenses set forth below are valid throughout the license year indicated and authorize the taking of nongame fishes from the inland fishing waters with the devices and during the open seasons listed in Rule .0407 of this Section. The use of longbow and arrow as a licensed special device is authorized for taking nongame fishes at any time from all inland fishing waters other than impounded waters located on the Sandhills Game Land and designated public mountain trout waters. Unless specifically prohibited, longbow and arrow may be used in joint fishing waters. It is unlawful to take fish with crossbow and arrow in any inland fishing waters.

(b) Special Device Personal Use Fishing License. Licenses to use special devices in taking nongame fishes from inland fishing waters for personal use only and not for the purpose of sale may be obtained from authorized license agents of the commission. Not more than 100 yards of gill net, drift net or seine and no more than five

(b) Nets. Manually operated nets, including seines and bow, cast and dip nets may be used under the special device fishing license. No gill nets, drift nets, fyke nets or other stationary nets may be used in inland fishing waters.

(c) Traps. No more than ten baskets or traps of any sort, other than automobile tires, may be used under the special device personal use fishing license. Such devices when set and left unattended shall be affixed with a card or tag furnished by the license holder and upon which his name and address shall be legibly and indelibly inscribed. No fish trap may exceed five feet in length or two feet in depth or width. No lead nets, wing nets, or other device designed to guide or herd fish may be attached to the trap or used or set within 25 feet of the

trap. Such card or tag shall be affixed to the top line of each gill net at one end.

(c) Special Device Nonpersonal Use License. Licenses to use special devices in taking nongame fishes from inland fishing waters for personal and nonpersonal use, including sale, may be obtained directly from the Wildlife Resources Commission, License Section, Archdale Building, 542 North Salisbury Street, Raleigh, North Carolina 27611. Each unit of gear used under the special device nonpersonal use fishing license shall be affixed with a tag supplied by the Wildlife Resources Commission on remittance of one dollar (\$1.00) per tag and showing the license number, tag number, license year date, type of gear, and name and address of the license holder. Such tag shall be valid for use only during the year indicated.

(d) Spears. Manually operated gigs or under-water spear or harpoon guns may be used under the special fishing device license in the inland waters having a season for their use specified in Rule .0407 of this Section.

*Statutory Authority G.S. 113-134; 113-272.2; 113-276; 113-292.*

#### .0406 TRAWLS AND DREDGES

No fixed or gill net or other stationary net which may be authorized as a special fishing device may be more than 100 yards in length, nor shall any such net be placed within 50 yards of any other fixed net. Fixed nets must be set so that they run parallel to the nearest shoreline, except in the Neuse, Trent, Northeast Cape Fear, Cape Fear, and Black Rivers and their tributaries. No anchored or fixed gill net or drift net shall be used unless such net is marked for the protection of boat operators. A net shall be deemed so marked when there is attached to it at each end a floating plastic jug or other floating object not less than six inches in its smallest dimensions. Floats marking the ends shall be colored white. Glass floats and metal cans may not be used.

It is unlawful to attach gill nets to any wire, rope, or similar device extended across any navigable watercourse.

It is unlawful to use a trawl or clam dredge in any inland fishing waters.

*Statutory Authority G.S. 113-134; 113-292.*

#### .0407 PERMITTED SPECIAL DEVICES AND OPEN SEASONS

Except in designated public mountain trout waters, and in impounded waters located on

the Sandhills Game Land, there is a year-round open season for the licensed taking of nongame fishes by bow and arrow. Seasons and waters in which the use of other special devices is authorized are indicated by counties below:

- (4) Anson:
  - (a) July 1 to June 30 with traps and gigs in all public waters;
  - (b) December 1 to June 5 with dip and bow nets in Pee Dee River below Blewett Falls Dam; ~~and with gill nets in Pee Dee River below the lower end of Goat Island;~~
  - (c) July 1 to August 31 with seines in all running public waters, except Pee Dee River from Blewett Falls downstream to the Seaboard Coast Line Railroad trestle;
- (6) Beaufort:
  - (a) July 1 to June 30 with traps in the Pungo River, and in the Tar and Pamlico Rivers above Norfolk and Southern Railroad bridge; and with gigs in all inland public waters;
  - (b) December 1 to June 5 with dip and bow nets in all inland public waters; ~~with drift gill nets in Tar River upstream from the Norfolk and Southern Railroad bridge at Washington to the Pitt County line; and with gill nets in all other inland public waters, except Blounts Creek, Chocowinity Bay, Durham Creek, Mixon Creek and Nevil Creek;~~
- (7) Bertie:
  - (a) July 1 to June 30 with traps in the Cashie River and Broad Creek (tributary of Roanoke);
  - (b) December 1 to June 5 with dip and bow nets in all inland public waters, excluding public lakes, ponds, and other impounded waters; ~~and with gill nets in all inland public waters;~~
- (8) Bladen:
  - (a) ~~December 1 to March 1 with gill nets in all inland public waters, except Jones, Salters, White, Singletary and Baytree (Black) Lakes;~~
  - (b) ~~December 1 to May 1 with gill nets in Black River;~~
  - (c) December 1 to June 5 with dip and bow nets in Black River;
- (9) Brunswick:
  - (a) ~~December 1 to March 1 with gill nets in all inland public waters;~~
  - (b) ~~December 1 to May 1 with dip and bow bow, and gill nets in Alligator Creek,~~

Hoods Creek, Indian Creek, Orton Creek below Orton Pond, Rices Creek, Sturgeon Creek and Town Creek;

- (14) Camden:
  - (a) July 1 to June 30 with traps in all inland public waters;
  - (b) December 1 to June 5 with dip and bow nets in all inland public waters, excluding public lakes, ponds, and other impounded waters; ~~and with gill nets in all inland public waters;~~
- (15) Carteret: December 1 to June 5 with dip and ~~bow bow,~~ and gill nets in all inland public waters except South River and the tributaries of the White Oak River;
- (18) Chatham:
  - (a) December 1 to April 15 with dip ~~and gill~~ nets in the Cape Fear River, Deep River, Haw River and Rocky River (local law);
  - (b) July 1 to August 31 with seines in the Cape Fear River, Deep River, Haw River, and Rocky River;
  - (c) July 1 to June 30 with traps in Deep River; and with gigs in all public waters;
- (20) Chowan:
  - (a) December 1 to June 5 with dip and bow nets in all inland public waters, excluding public lakes, ponds, and other impounded waters; ~~and with gill nets in all inland public waters, except Ben-netts Mill Pond and Dillard Pond;~~
  - (b) July 1 to June 30 with traps in all inland public waters, excluding public lakes, ponds, and other impounded waters;
- (23) Columbus:
  - (a) December 1 to March 1 with ~~gill nets and~~ gigs in all inland public waters, except Lake Waccamaw and its inlets;
  - (b) December 1 to June 5 with dip ~~and bow bow,~~ and gill nets in Livingston Creek;
- (24) Craven:
  - (a) July 1 to June 30 with traps in the main run of the Trent and Neuse Rivers;
  - (b) December 1 to June 5 with dip ~~and bow bow,~~ and gill nets in all inland public waters, except Pitch Kettle, Grindle, Slocum, Spring and Hancock Creeks and their tributaries ~~with dip and bow nets in Slocum Creek below above~~ the US 70 bridge; and with seines in the Neuse River;
- (25) Cumberland: ~~December 1 to March 1 with gill nets in all inland public waters;~~
- (25) (26) Currituck:
  - (a) July 1 to June 30 with traps in Tulls Creek and Northwest River;



- (b) December 1 to June 5 with dip and bow nets in all inland public waters, excluding public lakes, ponds, and other impounded waters; ~~and with gill nets in Northwest River and Tulls Creek;~~
- (26) ~~(27)~~ Dare:
- (a) July 1 to June 30 with traps in Mashoes Creek, Milltail Creek, East Lake and South Lake;
- (b) December 1 to June 5 with dip and bow nets in all inland public waters, excluding public lakes, ponds, and other impounded waters; ~~and with gill nets in Martin Point Creek;~~
- (27) ~~(28)~~ Davidson:
- (a) July 1 to August 31 with seines in all running public waters;
- (b) July 1 to June 30 with gigs in all public waters, and with traps in all public waters except Leonard's Creek, Abbott's Creek below Lake Thom-A-Lex dam, and the Abbott's Creek arm of High Rock Lake upstream from the NC 8 bridge;
- (28) ~~(29)~~ Davie:
- (a) July 1 to June 30 with traps and gigs in all public waters;
- (b) July 1 to August 31 for taking only carp and suckers with seines in Dutchmans Creek from US 601 to Yadkin River and in Hunting Creek from SR 1338 to South Yadkin River;
- (29) ~~(30)~~ Duplin:
- (a) ~~December 1 to March 1 with gill nets in Baysden Pond and in the Northeast Cape Fear River, including old channels from a point one mile above SR 1700 (Serecta) Bridge downstream to the county line;~~
- (b) December 1 to June 5 with dip and bow bow, and gill nets and seines in the main run of the Northeast Cape Fear River downstream from a point one mile above Serecta Bridge;
- (30) ~~(31)~~ Durham:
- (a) July 1 to August 31 with seines in Neuse River,
- (b) July 1 to June 30 with gigs in all public waters;
- (31) ~~(32)~~ Edgecombe:
- (a) ~~December 1 to March 15 with gill nets in Noble Mill Pond and Wiggins Lake;~~
- (b) December 1 to June 5 with dip and bow nets in all public waters; ~~and with drift gill nets in Tar River below the bridge at Old Sparta to the Pitt County line;~~
- (32) ~~(33)~~ Forsyth: July 1 to June 30 with traps and gigs in all public waters, except traps may not be used in Belews Creek Reservoir;
- (33) ~~(34)~~ Franklin:
- (a) ~~December 1 to March 1 with gill nets in Clifton Pond, Parrish Pond, Jackson Pond and Lake Royale;~~
- (a) ~~(b)~~ July 1 to August 31 with seines in Tar River;
- (b) ~~(c)~~ July 1 to June 30 with gigs in all public waters, except Parrish, Laurel Mill, Jackson, Clifton, Moore's and Perry's Ponds, and in the Franklinton City ponds;
- (34) ~~(35)~~ Gaston:
- (a) July 1 to August 31 with seines in all running public waters;
- (b) July 1 to June 30 with gigs, traps and spear guns in all public waters;
- (35) ~~(36)~~ Gates: December 1 to June 5 with dip and bow nets in all inland public waters, excluding public lakes, ponds, and other impounded waters; ~~and with gill nets in all inland public waters, except Williams (Merchants Mill) Pond;~~
- (36) ~~(37)~~ Graham: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters;
- (37) ~~(38)~~ Granville:
- (a) July 1 to June 30 with gigs in all public waters, except Kerr Reservoir;
- (b) July 1 to August 31 with seines in the Neuse River and the Tar River below US 158 bridge;
- (c) July 1 to June 30 with dip and cast nets in Kerr Reservoir;
- (38) ~~(39)~~ Greene: December 1 to June 5 with dip and bow bow, and gill nets and reels in Contentnea Creek;
- (39) ~~(40)~~ Guilford:
- (a) July 1 to August 31 with seines in Haw River, Deep River below Jamestown Dam, and Reedy Fork Creek below US 29 bridge;
- (b) July 1 to June 30 with gigs in all public waters;
- (40) ~~(41)~~ Halifax:
- (a) ~~December 1 to March 1 with gill nets in White's Mill Pond;~~
- (a) ~~(b)~~ December 1 to June 5 with dip and bow nets in Beech Swamp, Clarks Canal, Conoconnara Swamp, Fishing Creek below the Fishing Creek Mill Dam, Kehukee Swamp, Looking Glass Gut, Quankey Creek, and White's Mill Pond Run;
- (b) ~~(c)~~ July 1 to June 30 with dip and cast nets in Gaston Reservoir and Roanoke Rapids Reservoir;

- (41) ~~(42)~~ Harnett:
- (a) ~~December 1 to March 1 with gill nets in all inland public waters;~~
- (a) ~~(b)~~ January 1 to May 31 with gigs in Cape Fear River and tributaries;
- (b) ~~(c)~~ December 1 to June 5 with dip and bow nets in Cape Fear River;
- (42) ~~(43)~~ Haywood: July 1 to June 30 with gigs in all public waters, except Lake Junaluska and designated public mountain trout waters;
- (43) ~~(44)~~ Henderson: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters;
- (44) ~~(45)~~ Hertford:
- (a) July 1 to June 30 with traps in Wiccacon Creek;
- (b) December 1 to June 5 with dip and bow nets in all inland public waters, excluding public lakes, ponds, and other impounded waters; and with gill nets in all inland public waters, except mill ponds;
- (46) ~~(47)~~ Hoke: ~~December 1 to March 1 with gill nets in all inland public waters;~~
- (45) ~~(47)~~ Hyde:
- (a) July 1 to June 30 with traps in all inland waters;
- (b) December 1 to June 5 with dip and bow nets in all inland public waters, excluding public lakes, ponds, and other impounded waters; and with gill nets in Pungo River and tributaries upstream from US 264 bridge, Seranton Creek, and Long Shoal River and tributaries;
- (46) ~~(48)~~ Iredell: July 1 to June 30 with traps and gigs in all public waters; and with spear guns in Lookout Shoals Reservoir and Lake Norman;
- (47) ~~(49)~~ Jackson: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters;
- (48) ~~(50)~~ Johnston:
- (a) ~~December 1 to March 1 with gill nets in Cattails Lake, Holts Lake, Holts Pond, and Wendell Lake;~~
- (b) ~~(c)~~ December 1 to June 5 with dip and bow nets in Black Creek, Little River, Middle Creek, Mill Creek, Neuse River, and Swift Creek;
- (49) ~~(51)~~ Jones:
- (a) July 1 to June 30 with traps in the Trent River below US 17 bridge and White Oak River below US 17 bridge;
- (b) December 1 to June 5 with dip and bow ~~bow, and gill~~ nets in all inland public waters, except the White Oak River and ~~its tributaries;~~ tributaries of White Oak River;
- (c) ~~December 1 to June 5 with dip and bow nets in the main run of the White Oak River;~~
- (d) ~~March 1 to April 30 with gill nets in the main run of the White Oak River;~~
- (50) ~~(52)~~ Lee:
- (a) December 1 to April 15 with dip and gill nets (local law) in Cape Fear River and Deep River; and with gill nets in Morris Pond;
- (b) July 1 to August 31 with seines in Cape Fear River and Deep River;
- (c) July 1 to June 30 with traps in Deep River, and with gigs in all public waters;
- (51) ~~(53)~~ Lenoir:
- (a) July 1 to June 30 with traps in Neuse River below US 70 bridge at Kinston;
- (b) December 1 to June 5 with dip and bow ~~bow, and gill~~ nets in Neuse River and Contentnea Creek upstream from NC 118 bridge at Grifton; and with seines in Neuse River;
- (52) ~~(54)~~ Lincoln:
- (a) July 1 to August 31 with seines in all running public waters;
- (b) July 1 to June 30 with traps, gigs and spear guns in all public waters;
- (53) ~~(55)~~ McDowell:
- (a) July 1 to August 31 with seines in all running public waters, except designated public mountain trout waters;
- (b) July 1 to June 30 with traps, gigs, and spear guns in all public waters, except designated public mountain trout waters and Lake James;
- (54) ~~(56)~~ Macon: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters;
- (55) ~~(57)~~ Madison: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters;
- (56) ~~(58)~~ Martin: December 1 to June 5 with dip and bow nets in all inland public waters, excluding public lakes, ponds, and other impounded waters; and with gill nets in all inland public waters;
- (57) ~~(59)~~ Mecklenburg:
- (a) July 1 to August 31 with seines in all running public waters;
- (b) July 1 to June 30 with traps, gigs and spear guns in all public waters;
- (58) ~~(60)~~ Montgomery:
- (a) July 1 to August 31 with seines in all running public waters, except that part of the Pee Dee River between the Lake

- Tillery dam at Hydro and the mouth of Rocky River;
- (b) July 1 to June 30 with traps and gigs in all public waters;
- (59) ~~(61)~~ Moore:
- (a) ~~December 1 to April 15 with gill nets in Deep River and all tributaries;~~
- (a) ~~(b)~~ July 1 to August 31 with seines in all running public waters;
- (b) ~~(c)~~ July 1 to June 30 with gigs in all public waters, except lakes located on the Sandhills Game Land; and with traps in Deep River and its tributaries;
- (60) ~~(62)~~ Nash:
- (a) ~~December 1 to March 1 with gill nets in Boddies Pond and Camp Charles Lake;~~
- (a) ~~(b)~~ July 1 to June 30 with gigs in all public waters, except Tar River;
- (b) ~~(c)~~ December 1 to June 5 with dip and bow nets in the Tar River below Harris' Landing and Fishing Creek below the Fishing Creek Mill Dam;
- (61) ~~(63)~~ New Hanover: December 1 to June 5 with dip and bow ~~bow, and gill~~ nets in all inland public waters, except Sutton (Catfish) Lake;
- (62) ~~(64)~~ Northampton:
- (a) July 1 to June 30 with gigs in all public waters, except Gaston and Roanoke Rapids Reservoirs and the Roanoke River above the US 301 bridge;
- (b) December 1 to June 5 with dip and bow nets in Oconeechee Creek, Old River Landing Gut and with dip, bow and gill nets in and Vaughans Creek below Watsons Mill;
- (c) July 1 to June 30 with dip and east nets in Gaston Reservoir and Roanoke Rapids Reservoir;
- (63) ~~(65)~~ Onslow:
- (a) July 1 to June 30 with traps in White Oak River below US 17 bridge;
- (b) August 1 to March 31 with eel pots in the main run of New River between US 17 bridge and the mouth of Hawkins Creek;
- (c) ~~December 1 to March 1 with gill nets in Catherine Lake and Baysden Pond;~~
- (c) ~~(d)~~ December 1 to June 5 with dip and bow ~~bow, and gill~~ nets in the main run of New River and with dip and bow nets in and the main run of the White Oak River;
- (d) ~~(e)~~ March 1 to April 30 with gill nets in the main run of the White Oak River; and with dip and bow ~~bow and gill~~ nets in Grant's Creek;
- (64) ~~(66)~~ Orange:
- (a) July 1 to August 31 with seines in Haw River;
- (b) July 1 to June 30 with gigs in all public waters;
- (65) ~~(67)~~ Pamlico:
- (a) December 1 to June 5 with dip and bow ~~bow, and gill~~ nets in all inland public waters;
- (b) Persons owning property adjacent to the inland fishing waters of Dawson Creek are permitted to set two crab pots to be attached to their property and not subject to special device license requirements.
- (66) ~~(68)~~ Pasquotank:
- (a) July 1 to June 30 with traps in all inland waters;
- (b) December 1 to June 5 with dip and bow nets in all inland public waters, excluding public lakes, ponds, and other impounded waters; and with gill nets in all inland public waters;
- (67) ~~(69)~~ Pender:
- (a) December 1 to June 5 with dip and bow ~~bow, and gill~~ nets in Black River, the Northeast Cape Fear River and Long Creek; with dip and bow nets in Black River; and with seines in the main run of Northeast Cape Fear River;
- (b) December 1 to May 1 with gill nets in Black River; and with dip and bow ~~bow, and gill~~ nets in Moore's Creek approximately one mile upstream to New Moon Fishing Camp;
- (68) ~~(70)~~ Perquimans:
- (a) July 1 to June 30 with traps in all inland waters;
- (b) December 1 to June 5 with dip and bow nets in all inland public waters, excluding public lakes, ponds, and other impounded waters; and with gill nets in all inland public waters;
- (69) ~~(71)~~ Person:
- (a) July 1 to August 31 with seines in Hyco Creek and Maho Creek;
- (b) July 1 to June 30 with gigs in all public waters;
- (c) July 1 to June 30 with traps in Hyco Reservoir;
- (70) ~~(72)~~ Pitt:
- (a) July 1 to June 30 with traps in Neuse River and in Tar River below the mouth of Hardee Creek east of Greenville;
- (b) December 1 to June 5 with dip, bow and drift gill nets and with seines in Tar River; and with dip and bow ~~bow and~~



- gill nets in all other inland public waters, except Grindle Creek, and Contentnea Creek between NC 118 bridge at Grifton and the Neuse River;
- (71) ~~(72)~~ Polk: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters;
- (72) ~~(74)~~ Randolph:
- (a) ~~December 1 to March 1 with gill nets in Deep River and Uwharrie River;~~
- (a) ~~(b)~~ July 1 to August 31 with seines in Deep River and Uwharrie River;
- (b) ~~(c)~~ July 1 to June 30 with gigs in all public waters;
- (73) ~~(75)~~ Richmond:
- (a) July 1 to August 31 with seines in all running public waters, except Pee Dee River from Blewett Falls downstream to the Seaboard Coast Line Railroad trestle;
- (b) July 1 to June 30 with traps and gigs in all public waters, except lakes located on the Sandhills Game Land;
- (c) December 1 to June 5 with dip and bow nets in Pee Dee River below Blewett Falls Dam: ~~and with gill nets in Pee Dee River below the mouth of Cartledge Creek;~~
- (74) ~~(76)~~ Robeson: December 1 to March 1 with ~~gill nets and~~ gigs in all inland public waters;
- (75) ~~(77)~~ Rockingham:
- (a) July 1 to August 31 with seines in Dan River and Haw River;
- (b) July 1 to June 30 with traps in Dan River; and with gigs in all public waters;
- (76) ~~(78)~~ Rowan:
- (a) July 1 to August 31 with seines in all running public waters.
- (b) July 1 to June 30 with traps and gigs in all public waters;
- (77) ~~(79)~~ Rutherford:
- (a) July 1 to August 31 with seines in all running public waters, except designated public mountain trout waters;
- (b) July 1 to June 30 with traps, gigs, and spear guns in all public waters, except designated public mountain trout waters;
- (78) ~~(80)~~ Sampson:
- (a) ~~December 1 to March 1 with gill nets in all inland public waters;~~
- (b) ~~December 1 to May 1 with gill nets in Big Coharie Creek, Black River, and Six Runs Creek;~~
- (c) ~~May 2 to June 5 with gill nets of no less than five and one-half inch stretch measure in Big Coharie Creek, Black River, and Six Runs Creek;~~
- (d) ~~December 1 to June 5 with dip and bow nets in Big Coharie Creek, Black River, and Six Runs Creek;~~
- (81) ~~Scotland: December 1 to March 1 with gill nets in all inland public waters, except lakes located on the Sandhills Game Land;~~
- (79) ~~(82)~~ Stanly:
- (a) July 1 to August 31 with seines in all running public waters, except that part of the Pee Dee River between the Lake Tillery Dam at Hydro and the mouth of Rocky River;
- (b) July 1 to June 30 with traps and gigs in all public waters;
- (80) ~~(83)~~ Stokes: July 1 to June 30 with traps and gigs in all public waters, except designated public mountain trout waters, and traps may not be used in Belews Creek Reservoir;
- (81) ~~(84)~~ Surry: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters; and with traps in the main stem of Yadkin River;
- (82) ~~(85)~~ Swain: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters;
- (83) ~~(86)~~ Transylvania: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters;
- (84) ~~(87)~~ Tyrrell:
- (a) July 1 to June 30 with traps in Scuppernon River, Alligator Creek, and the drainage canals of Lake Phelps except Bee Tree Canal within 50 yards of the Lake Phelps fish ladder;
- (b) December 1 to June 5 with dip and bow nets in all inland public waters, excluding Lake Phelps, Bee Tree Canal within 50 yards of the Lake Phelps fish ladder, public lakes, ponds and other impounded waters; ~~and with gill nets in Alligator Creek;~~
- (85) ~~(88)~~ Union:
- (a) July 1 to August 31 with seines in all running public waters,
- (b) July 1 to June 30 with traps and gigs in all public waters;
- (86) ~~(89)~~ Vance:
- (a) ~~December 1 to March 1 with gill nets in Southerlands Pond and Ellis Pond;~~
- (a) ~~(b)~~ July 1 to August 31 with seines in the Tar River;
- (b) ~~(c)~~ July 1 to June 30 with gigs in all public waters, except Rolands, Faulk-

ners, Southerlands, and Weldon Ponds, City Lake, and Kerr Reservoir;

(c) ~~(4)~~ July 1 to June 30 with dip and cast nets in Kerr Reservoir;

(87) ~~(90)~~ Wake:

(a) July 1 to June 30 with gigs in all public waters, except Sunset, Benson, Wheeler, Raleigh, and Johnson Lakes;

(b) December 1 to June 5 with dip and bow nets in the Neuse River below Milburnic Dam, and Swift Creek below Lake Benson Dam;

(88) ~~(91)~~ Warren:

(a) July 1 to August 31 with seines in Fishing Creek, Shoeco Creek, and Walker Creek; excluding Duck and Hammes Mill Ponds;

(b) July 1 to June 30 with gigs in all public waters, except Duck and Hammes Mill Ponds, Kerr Reservoir, and Gaston Reservoir;

(c) July 1 to June 30 with dip and cast nets in Kerr Reservoir and Gaston Reservoir;

(89) ~~(92)~~ Washington:

(a) July 1 to June 30 with traps in the drainage canals of Lake Phelps;

(b) December 1 to June 5 with dip and bow nets in all inland public waters, excluding Lake Phelps, public lakes, ponds and other impoundments; ~~and with gill nets in Conaby Creek;~~

(90) ~~(93)~~ Wayne:

~~(a) December 1 to March 1 with gill nets in Sasser's Mill Pond and Sleepy Creek Lake;~~

~~(b) December 1 to June 5 with dip and bow nets in Little River, Mill Creek, and Neuse River, except from Quaker Neck Dam downstream to SR 1008 (Tolar) bridge;~~

(91) ~~(94)~~ Wilkes: July 1 to June 30 with traps in Yadkin River below W. Kerr Scott Reservoir; and with gigs and spear guns in all public waters, except designated public mountain trout waters;

(92) ~~(95)~~ Wilson:

(a) July 1 to June 30 with gigs in Contentnea Creek (except Buckhorn Reservoir), including unnamed tributaries between Flowers Mill and SR 1163 (Deans) bridge;

(b) December 1 to June 5 with dip and bow nets in Contentnea Creek below US 301 bridge and in Toisnot Swamp downstream from the Lake Toisnot Dam;

~~(e) January 1 to March 1 with gill nets in Silver Lake;~~

(93) ~~(96)~~ Yadkin: July 1 to June 30 with gigs in all public waters, and with traps in the main stem of Yadkin River.

Statutory Authority G.S. 113-134; 113-292.

## SUBCHAPTER 10D - GAME LANDS REGULATIONS

### .0002 GENERAL REGULATIONS REGARDING USE

(c) Possession of Hunting Devices. It is unlawful to possess a firearm or bow and arrow on a game land at any time except during the open hunting seasons or hunting days for game birds or game animals thereon unless said device is cased or not immediately available for use, provided that such devices may be possessed and used by persons participating in field trials on field trial areas and on target shooting areas designated by the landowner, and possessed in designated camping areas for defense of persons and property; and provided further that .22 caliber pistols with barrels not greater than seven and one-half inches in length and shooting only short, long, or long rifle ammunition may be carried as side arms on game lands at any time other than by hunters during the special bow and arrow and muzzle-loading firearms deer hunting seasons and by individuals training dogs during closed season without field trial authorization. This Rule shall not prevent possession or use of a bow and arrow as a licensed special fishing device in those waters where such use is authorized. During the closed firearms seasons on big game (deer, bear, boar, wild turkey), no person shall possess a shotgun shell containing larger than No. 4 shot or any rifle larger than a .22 caliber rimfire while on a game land, except that shotgun shells containing No. 2 shot may be used on Croatan, Goose Creek and Gull Rock Game Lands.

No persons shall hunt with or have in possession any shotgun shell containing lead or toxic shot while hunting on any posted waterfowl impoundment on any game land, or while hunting waterfowl on Butner-Falls of Neuse Game Land or New Hope Game Land.

(f) Trapping. Subject to the restrictions contained in 15 NCAC 10B .0110, .0302 and .0303, trapping of furbearing animals is permitted on game lands during the applicable open seasons, except that trapping is prohibited:

- (1) on the field trial course of the Sandhills Game Land;
- (2) on the Harmon Den and Sherwood bear sanctuaries in Haywood County;
- (3) in posted "safety zones" located on any game land;
- (4) by the use of multiple sets (with anchors less than 15 feet apart) or bait on the National Forest Lands bounded by the Blue Ridge Parkway on the south, US 276 on the north and east, and NC 215 on the west;
- (5) on that portion of the Butner-Falls of Neuse Game Lands marked as the Penny Bend Rabbit Research area;
- ~~(6) on those areas of state-owned land known collectively as the Roanoke River Wetlands and including the Broadneck, Company Swamp, Conine Island, Speller-Outlaw and Urquhart tracts.~~
- (6) on Cowan's Ford Waterfowl Refuge in Gaston, Lincoln and Mecklenburg Counties.

On those areas of state-owned land known collectively as the Roanoke River Wetlands and including the Broadneck, Company Swamp, Conine Island, Speller-Outlaw and Urquhart tracts, controlled trapping is allowed under a permit system. For information contact the Division of Wildlife Management of the Wildlife Resources Commission.

*Statutory Authority G.S. 113-134; 113-264; 113-270.3; 113-291.2; 113-291.5; 113-305; 113-306.*

#### .0003 HUNTING ON GAME LANDS

(c) Time and Manner of Taking. Except where closed to hunting or limited to specific dates by these regulations, hunting on game lands is permitted during the open season for the game or furbearing species being hunted. On managed waterfowl impoundments, hunters shall not enter the posted impoundment areas earlier than 4:00 a.m. on the permitted hunting dates, and hunting is prohibited after 1:00 p.m. on such hunting dates; decoys may not be set out prior to 4:00 a.m. and must be removed by 3:00 p.m. each day. On Butner-Falls of Neuse, New Hope and Shearon Harris Game Lands water fowl hunting is limited to the period from one-half hour before sunrise to 1:00 p.m. on the open hunting days. No person shall operate any vessel or vehicle powered by an internal combustion engine on a managed waterfowl impoundment.

No person shall attempt to obscure the sex or age of any bird or animal taken by severing the head or any other part thereof, or possess any bird or animal which has been so mutilated.

No person shall place, or cause to be placed on any game land, salt, grain, fruit, or other foods without prior written authorization of the commission or its agent and no person shall take or attempt to take any game birds or game animals attracted to such foods. No person shall use an electronic calling device for the purpose of attracting wild birds or wild animals.

No live wild animals or wild birds shall be removed from any game land.

#### (d) Hunting Dates

- (2) Any game may be taken during the open seasons on the following game lands and hunting is limited to Mondays, Wednesdays, Saturdays and Thanksgiving, Christmas and New Years Days. In addition, deer may be taken with bow and arrow on the opening day of the bow and arrow season for deer. Raccoon and opossum hunting may continue until 7:00 a.m. on Tuesdays, until 7:00 a.m. on Thursdays, and until midnight on Saturdays. Additional restrictions apply as indicated in parentheses following specific designations:

Ashe County--Carson Woods Game Land

Beaufort and Craven Counties--Big Pocosin Game Land (Dogs may not be trained or used in hunting from March 2 to August 31. Deer of either sex may be taken on November 30 and on December 3. Trapping is controlled by the landowner.)

Bertie County--Bertie County Game Lands

Bladen County--Bladen Lakes State Forest Game Lands (Handguns may not be carried and, except for muzzle-loaders, rifles larger than .22 caliber rimfire may not be used or possessed. On the Breece Tract and the Singletary Tract deer and bear may be taken only by still hunting.)

Cabarrus County--River View Acres Game Land

Caswell County--Caswell Game Land (That part designated and posted as a "safety zone" is closed to all hunting and trapping, and entry upon such area for any purpose, except by



authorized personnel in the performance of their duties, is prohibited. On areas posted as "restricted zones" hunting is limited to bow and arrow.)

Lenoir County--H.M. Bizzell, Sr., Game Land

Onslow County--White Oak River Impoundment Game Land (In addition to the dates above indicated, waterfowl may be taken on the opening and closing days of the applicable waterfowl seasons.)

Pender County--Holly Shelter Game Land (In addition to the dates above indicated, waterfowl may be taken on the opening and closing days of the applicable waterfowl seasons.)

Richmond, Scotland and Moore Counties--Sandhills Game Land (The regular gun season for deer consists of the open hunting dates from the second Monday before Thanksgiving to the third Saturday after Thanksgiving except on the field trial grounds where the gun season is from the second Monday before Thanksgiving to the Saturday following Thanksgiving. Deer may be taken with bow and arrow on all open hunting dates during the bow and arrow season, as well as during the regular gun season. Deer may be taken with muzzle-loading firearms on Monday, Wednesday and Saturday of the second week before Thanksgiving week, and during the regular gun season. Except for the deer seasons above indicated and the managed either-sex permit hunts, the field trial grounds are closed to all hunting during the period October 22 to March 31. In addition to the regular hunting days, waterfowl may be taken on the opening and closing days of the applicable waterfowl seasons.)

Robeson County--Keith Farm Game Land (No deer may be taken.)

Stokes County--Sauratown Plantation Game Land

Yadkin County--Huntsville Community Farms Game Land

- (3) Any game may be taken on the following game lands during the open season, except that:

(A) Bears may not be taken on lands designated and posted as bear sanctuaries;

(B) Wild boar may not be taken with the use of dogs on such bear sanctuaries, and wild boar may be hunted only during the bow and arrow seasons and the regular gun season on male deer on bear sanctuaries located in and west of the counties of Madison, Buncombe, Henderson and Polk;

(C) On game lands located in or west of the counties of Rockingham, Guilford, Randolph, Montgomery and Anson, dogs may not be used for any hunting (day or night) during the regular season for hunting deer with guns; except that small game may be hunted with dogs in season on all game lands, other than bear sanctuaries, in the counties of Cherokee, Clay, Jackson, Macon, Madison, Polk and Swain;

(D) On Croatan, Goose Creek, New Hope and Shearon Harris Game Lands waterfowl may be taken only on Mondays, Wednesdays, Saturdays; on Thanksgiving, Christmas and New Years Days; and on the opening and closing days of the applicable waterfowl seasons; except that outside the posted waterfowl impoundments on Goose Creek Game Land hunting any waterfowl in season is permitted any week day during the last 10 days of on Monday through Saturday during the regular duck season as established by the U.S. Fish and Wildlife Service;

(E) On the posted waterfowl impoundments of Gull Rock Game Land hunting of any species of wildlife is limited to Mondays, Wednesdays, Saturdays; Thanksgiving, Christmas, and New Years Days; and the opening and closing days of the applicable waterfowl seasons;

(F) On bear sanctuaries in and west of Madison, Buncombe, Henderson and Polk Counties dogs may not be trained or allowed to run unleashed between March 1 and October 11;

~~(G) Additional restrictions apply as indicated in parentheses following specific designations; and~~

~~(G) (H)~~ On Butner-Falls of Neuse and Person Game Lands waterfowl may be taken only on Tuesdays, Thursdays and Saturdays, Christmas and New Years Days, and on the opening and closing days of the applicable waterfowl seasons;

(H) On Angola Bay, Croatan, Goose Creek, Hofmann Forest and Tuscarora Game Lands deer of either sex may be taken during the period November 30 through December 3; and

(I) Additional restrictions or modifications apply as indicated in parentheses following specific designations.

Alexander and Caldwell Counties--

Brushy Mountains Game Lands

Anson County--Anson Game Land

Ashe County--Bluff Mountain Game Lands

Ashe County--Cherokee Game Lands

Ashe and Watauga Counties--Elk Knob Game Land

Avery, Buncombe, Burke, Caldwell, Haywood, Henderson, Jackson, Madison, McDowell, Mitchell, Transylvania, Watauga and Yancey Counties--Pisgah Game Lands (Harmon Den and Sherwood Bear Sanctuaries in Haywood County are closed to hunting raccoon, opossum and wildcat. Training raccoon and opossum dogs is prohibited from March 1 to October 11 in that part of Madison County north of the French Broad River, south of US 25-70 and west of SR 1319.)

Beaufort, Bertie and Washington Counties--Bachelor Bay Game Lands

Beaufort and Pamlico Counties--Goose Creek Game Land

Brunswick County--Green Swamp Game Land

Burke County--South Mountains Game Lands

Burke, McDowell and Rutherford Counties--Dysartsville Game Lands

Caldwell County--Yadkin Game Land

Carteret, Craven and Jones Counties--Croatan Game Lands

Chatham County--Chatham Game Land

Chatham and Wake Counties--New Hope Game Lands

Chatham and Wake Counties--Shearon Harris Game Land

Cherokee, Clay, Graham, Jackson, Macon, Swain and Transylvania Counties--Nantahala Game Lands

(On Fires Creek Bear Sanctuary in Clay County deer may be hunted on the opening day and on Fridays, Saturdays and Thanksgiving Day of the applicable gun season on deer. Raccoon and opossum may be hunted

only from sunset Friday until sunrise on Saturday and from sunset until 12:00 midnight on Saturday on Fires Creek Bear Sanctuary in Clay County and in that part of Cherokee County north of US 64 and NC 294, east of Persimmon Creek and Hiwassee Lake, south of Hiwassee Lake and west of Nottely River; in the same part of Cherokee County dog training is prohibited from March 1 to October 11. It is unlawful to train dogs or allow dogs to run unleashed on Fires Creek Bear Sanctuary at any time, except that dogs may be used when hunting raccoon or opossum and for hunting grouse and rabbits during the open seasons. It is unlawful to train dogs or allow dogs to run unleashed on any game land in Graham County between March 1 and October 11.)

Cleveland County--Gardner-Webb Game Land

Craven County--Tuscarora Game Land

Currituck County--North River Game Land

Currituck County--Northwest River Marsh Game Land

Dare County--Dare Game Land (No hunting on posted parts of bombing range.)

Davidson, Davie and Rowan Counties--Alcoa Game Land

Davidson County--Linwood Game Land

Davidson, Montgomery, Randolph and Stanly Counties--Uwharrie Game Land

Duplin and Pender Counties--Angola Bay Game Land

Durham, Granville and Wake Counties--Butner-Falls of Neuse Game Land (On that portion posted as the National Guard Rifle Range hunting and trapping is prohibited except during the following period: The second Monday before Thanksgiving to January 1. On portions of the Butner Game Land designated and posted as "safety zones" and on that part marked as the Penny Bend Rabbit Research Area no hunting is permitted. On portions posted as "restricted zones" hunting is limited to bow and arrow during the bow and arrow season and the regular gun season for deer.)

Franklin County--Franklin Game Lands  
 Gates County--Chowan Swamp Game Land  
 Granville County--Granville Game Lands  
 Halifax County--Halifax Game Land  
 Harnett County--Harnett Game Land  
 Henderson, Polk and Rutherford Counties--Green River Game Lands  
 Hyde County--Gull Rock Game Land  
 Hyde County--Pungo River Game Land  
 Hyde and Tyrrell Counties--New Lake Game Land  
 Jones and Onslow Counties--Hofmann Forest Game Land  
 Johnston County--Johnston Game Land  
 Lee County--Lee Game Land  
 McDowell County--Hickory Nut Mountain Game Land  
 Moore County--Moore Game Land  
 New Hanover County--Catfish Lake Game Land  
 Northampton County--Northampton Game Land  
 Orange County--Orange Game Land  
 Person County--Person Game Land  
 Richmond County--Richmond Game Land  
 Transylvania County--Toxaway Game Land  
 Vance County--Vance Game Land  
 Warren County--Warren Game Lands  
 Wilkes County--Thurmond Chatham Game Land

- (4) Deer of either sex may be taken on the hunt dates indicated by holders of permits to participate in managed hunts scheduled and conducted in accordance with this Subparagraph on the game lands or portions of game lands included in the following schedule:

Wednesday and Thursday of the first week after Thanksgiving Week:

~~Croatan~~

Uwharrie & Alcoa southeast of NC  
 49

Thursday and Friday of the first week after Thanksgiving Week:

~~Big Pocosin~~

Bladen Lakes State Forest  
Holly Shelter

Third Saturday after Thanksgiving Day:  
 Carson Woods  
 Thurmond Chatham

Thursday and Friday of the third week after Thanksgiving Week:  
 Sandhills east of US 1  
 Sandhills west of US 1

Fourth Saturday after Thanksgiving Day:

Dysartsville in McDowell County  
Green River

Hickorynut Mountain in McDowell County

Pisgah in Avery County

Pisgah in Burke County

Pisgah in Caldwell County

Pisgah in McDowell County

Pisgah in Yancey County north of US 19-19E

South Mountains

Thurmond Chatham

Application forms for permits to participate in managed deer hunts on game lands, together with pertinent information and instructions, may be obtained from hunting and fishing license agents and from the Wildlife Resources Commission. Completed applications must be received by the Commission not later than the first day of October next preceding the dates of hunt. Permits are issued by random computer selection, are mailed to the permittees 30 days prior to the hunt, and are non-transferable. Each permit is accompanied by an appropriate big game tag. A hunter making a kill must tag the deer and report the kill to a wildlife cooperator agent.

- (5) Except as otherwise indicated, the following game lands or indicated portions thereof are closed to all hunting:

Bertie, Halifax and Martin Counties--

Roanoke River Wetlands, consisting of the state-owned Broadneck, Company Swamp, Conine Island, Speller-Outlaw and Urquhart tracts (controlled hunting is scheduled and allowed by permit only. Interested persons should contact the Division of Wildlife Management of the Wildlife Resources Commission at the Archdale Building, 512 N. Salisbury Street, Raleigh, North Carolina 27611.)



Caswell County--Caswell Game Land  
(That portion designated and posted  
as a "Safety Zone")  
Dare County--Dare Game Lands  
(Those parts of bombing range  
posted against hunting)  
Gaston, Lincoln and Mecklenburg  
Counties--Cowan's Ford Waterfowl  
Refuge (except for youth either-sex  
deer hunts by permit only on the first  
and second Saturdays in October).  
~~Roanoke River Wetlands--(except by  
holders of special permits authorizing  
deer hunting on the Broadneck,  
Company Swamp and Conine Island  
tracts in Bertie County and the Spel-  
ler Outlaw tract in Martin County;  
and except by holders of special per-  
mits authorizing waterfowl and small  
game hunting on the Conine Island  
tract on Wednesdays and Saturdays  
during January, such permits to be  
issued by authorized representatives  
of the Wildlife Resources Commis-  
sion)~~

*Statutory Authority G.S. 113-134; 113-264;  
113-291.2; 113-291.5; 113-305.*

**.0004 FISHING ON GAME LANDS**

(b) Designated Public Mountain Trout Wa-  
ters

(4) Native Trout Waters

(A) Designation. So much of the fol-  
lowing public mountain trout waters,  
including all tributaries unless otherwise  
indicated, as are located on game lands,  
are further designated as native trout  
waters:

Armstrong Creek above the state fish  
hatchery in McDowell County  
Avery Creek in Transylvania County  
Big Creek in Haywood County  
Big Creek in Henderson County  
Big Creek in Yancey County  
Big East Fork of Pigeon River in Hay-  
wood County  
Big Snowbird Creek above the old rail-  
road junction in Graham County  
Bowlen's Creek in Yancey County  
Bradley Creek in the counties of Hen-  
derson and Transylvania  
Buck Creek in Clay County  
Buck Timber Creek, excluding all tri-  
butaries, in Avery County  
Caney Fork Creek in Jackson County  
Cary Flat Branch in Avery County

Cataloochee Creek in Haywood  
County  
Colbert Creek in Yancey County  
Curtis Creek above the fish barrier in  
McDowell County  
Davidson River, above its confluence  
with Avery Creek, except Grogan  
Creek in Transylvania County  
Fires Creek in Clay County  
Flat Creek in Jackson County  
Fletcher Creek in Henderson County  
Gage Creek in Jackson County  
Harper Creek in the Counties of Avery  
and Caldwell  
Left Prong of Pigeon Roost (Bear  
Wallow) Creek in Mitchell County  
Little East Fork of Pigeon River in  
Haywood County  
Lost Cove Creek, except Gragg Pong  
and Rockhouse Creek, in Avery  
County  
Mackey Creek in McDowell County  
Middle Creek in Yancey County  
Middle Prong, West Fork of Pigeon  
River in Haywood County  
Nantahala River above the bear sanc-  
tuary line in Macon County  
North Fork French Broad River up-  
stream from Long Branch in Tran-  
sylvania County  
North Harper Creek in Avery County  
Rock Creek in Yancey County  
Slick Rock Creek on the Tennessee line  
and in Graham County  
South Harper Creek in Avery County  
South Mills River in the counties of  
Henderson and Transylvania  
South Toe River from headwaters to  
upper game land boundary below  
Black Mountain Campground in  
Yancey County  
Steels Creek in Burke County  
Tanasee Creek in Jackson County  
Upper Creek in Burke County  
Whitewater River below Silver Run  
Creek, and excluding all tributaries,  
in the counties of Jackson and Tran-  
sylvania  
Wilson Creek above the Jim Todd  
property in Avery County  
Wolf Creek, except Old Mead Lake, in  
Jackson County

*Statutory Authority G.S. 113-134; 113-264;  
113-272; 113-292; 113-305.*

\* \* \* \* \*

*Notice is hereby given in accordance with G.S. 150B-12 that the North Carolina Wildlife Resources Commission intends to amend the regulation cited as 15 NCAC 10F .0310; and adopt regulations cited as 15 NCAC 10F .0353 and .0354.*

*The proposed effective date of this action is April 1, 1988.*

*The public hearing will be conducted at 10:00 a.m. on January 15, 1988 at Room 386, Archdale Bldg., 512 N. Salisbury St., Raleigh, NC 27611.*

*Comment Procedures: Interested persons may present their views either orally or in writing at the hearing. In addition, the record of hearing will be open for receipt of written comments from December 31, 1987, to 5:00 p.m. on January 31, 1988. Such written comments must be delivered or mailed to the Wildlife Resources Commission, 512 N. Salisbury Street, Raleigh, NC 27611.*

#### SUBCHAPTER 10F - MOTORBOATS AND WATER SAFETY

#### SECTION .0300 - LOCAL WATER SAFETY REGULATIONS

##### .0310 DARE COUNTY

(a) Regulated Areas. This Rule applies to the following waters and portions of waters:

- (1) Manteo. That portion of Doughs Creek from its mouth at Shallowbag Bay to and including the Inner Harbor, and the canal lying north and east of the Elizabeth II State Historical Site and connecting Doughs Creek with Shallowbag Bay. Doughs Creek adjacent to Shallowbag Bay and all canals situated within the territorial limits of the Town of Manteo.

- (5) Wanchese.

(A) The waters of Wanchese Harbor;

(B) The Canal from its beginning where it connects with the Roanoke Sound south of the dead end road SR 1141 extending northwest roughly parallel to SR 1141 and SR 1142, then westward roughly parallel to NC 345, and finally curving to the southwest roughly parallel to the C.B. Daniels Road to its end;

*Statutory Authority G.S. 75A-3; 75A-15.*

##### .0353 MECKLENBURG COUNTY

(a) Regulated Area. This Rule applies to the cove of Mountain Island Lake lying north of and adjacent to the Latta Plantation Park and adjacent to the Mecklenburg County Park and Duke Power Company properties.

(b) Speed Limit. No person shall operate any motorboat or vessel at greater than no-wake speed within the regulated area described in Paragraph (a) of this Rule.

(c) Placement and Maintenance of Markers. The Board of Commissioners of Mecklenburg County is designated a suitable agency for placement and maintenance of markers implementing this Rule.

*Statutory Authority G.S. 75A-3; 75A-15.*

##### .0354 PITT COUNTY

(a) Regulated Area. This Rule applies to the entire inlet of Hardee Creek from the Tar River in Pitt County.

(b) Speed Limit. No person shall operate a motorboat or vessel at greater than no-wake speed within the regulated area described in Paragraph (a) of this Rule.

(c) Placement and Maintenance of Markers. The Board of Commissioners of Pitt County is designated a suitable agency for placement and maintenance of markers implementing this Rule.

*Statutory Authority G.S. 75A-3; 75A-15.*

#### TITLE 21 - OCCUPATIONAL LICENSING BOARDS

*Notice is hereby given in accordance with G.S. 150B-12 that the N.C. State Board of Cosmetic Art Examiners intends to adopt regulations cited as 21 NCAC 14C .0103; 14F .0013; 14G .0016; 14M .0016 - .0017; amend regulations cited as 21 NCAC 14A .0102; 14A .0104 - .0105; 14B .0101 - .0102; .0105 - .0107; .0201; .0302 - .0303; .0305 - .0306; .0308 - .0309; .0501; .0503; 14C .0101; .0202; .0301; .0503 - .0504; .0601; .0805; .0903 - .0904; .0906 - .0908; 14D .0101; .0103 - .0104; .0302 - .0303; .0305; .0309 - .0310; 14F .0001; .0004 - .0005; .0007 - .0009; .0012; 14G .0002 - .0004; .0008; .0011 - .0014; 14H .0009 - .0010; .0012 - .0013; 14I .0101; .0103 - .0107; .0109; .0302; 14J .0103 - .0106; .0204 - .0206; .0302 - .0305; .0402 - .0404; 14K .0002; 14L .0101; .0103; .0204 - .0206; .0208 - .0209; .0214; 14M .0001; .0004 - .0006; .0014 - .0015; repeal regulations cited as 21 NCAC 14A .0201 - .0207; .0301 -*

.0309; 14B .0103 - .0104; .0202 - .0204; .0301; .0401 - .0402; 14C .0102; .0302 - .0304; .0501 - .0502; .0701 - .0702; .0901 - .0902; .0905; .0909 - .0911; 14D .0102; .0201 - .0205; .0301; .0304; .0401 - .0402; .0501 - .0503; 14E .0101 - .0103; .0201 - .0205; 14F .0002 - .0003; .0006; .0011; 14G .0005.

*The proposed effective date of this action is April 1, 1988.*

*The public hearing will be conducted at 9:00 a.m. on January 14, 1988 at 4101 North Blvd., Suite 11, Raleigh, N.C.*

**Comment Procedures:** Any person may request information or copies of the proposed rules by writing or calling Vicky Goudie, N.C. State Board of Cosmetic Arts Examiners, 4101 North Blvd., Suite H, Raleigh, N.C. 27604, (919) 733-3010. Written comments on these rules may be sent to Mrs. Goudie by January 14, 1988 at the above address. Written and oral (for no more than ten minutes) comments at least three days prior to the hearing if you desire to speak.

#### CHAPTER 14 - BOARD OF COSMETIC ART EXAMINERS

##### SUBCHAPTER 14A - DEPARTMENTAL RULES

##### SECTION .0100 - ORGANIZATIONAL RULES

###### .0102 PHYSICAL ADDRESS

The physical address of the North Carolina State Board of Cosmetic Art Examiners is ~~413 West Hargett Street, Raleigh, North Carolina 27602.~~ 4101 North Blvd., Suite 11, Raleigh, North Carolina 27604.

*Statutory Authority G.S. 88-23; 150B-11(1).*

###### .0104 MAILING ADDRESS

The mailing address for the North Carolina State Board of Cosmetic Art Examiners is ~~Post Office Box 4108, Raleigh, North Carolina 27602.~~ 4101 North Blvd., Suite 11, Raleigh, North Carolina 27604.

*Statutory Authority G.S. 88-23; 150B-11(1).*

###### .0105 PURPOSE AND RESPONSIBILITY

The purpose and responsibilities of the North Carolina State Board of Cosmetic Art Examiners are as follows:

- (1) to examine individuals to determine if they meet the qualifications necessary to

receive a certificate of registration as an apprentice or as a registered cosmetologist, or as a registered Manicurist.

- (2) to grant certificates by reciprocity to qualified cosmetologists from other states,
- (3) to regulate the practice of cosmetology,
- (4) to collect the statutory fees required for qualification as a registered apprentice ~~or~~ cosmetologist, or manicurist
- (5) to renew the certificates of every qualified registered apprentice or registered cosmetologist or manicurist annually,
- (6) to keep records of all proceedings relating to the certification of cosmetologists, and apprentice and manicurists.
- (7) to keep records of all statutory fees collected in the qualifying and registering of cosmetologists, apprentice and manicurist.
- (8) to renew the certificates of every qualified registered cosmetologist every three years.
- (9) to collect the statutory fees required to register a beauty salon.
- (10) to renew the certificates of every registered beauty salon annually.
- (11) to examine individuals to determine if they meet the qualifications necessary to receive a certificate of registration as a teacher.
- (12) to renew the certificates of every qualified registered teacher every two years.
- (13) for the board to hold an annual seminar for registered teachers so that they may renew their certificates every two years.
- (14) to determine if salons meet qualifications to receive a certificate of registration.
- (15) to determine if beauty schools meet qualifications to receive a certificate of approval.
- (16) to inspect registered salons and approve beauty schools periodically.

*Statutory Authority G.S. 88-1; 88-19; 88-21; 88-25; 88-29.*

##### SECTION .0200 - BOARD OF COSMETIC ART EXAMINERS

- .0201 POWERS OF THE BOARD (REPEALED)
- .0202 INSPECTIONS (REPEALED)
- .0203 COMPOSITION (REPEALED)
- .0204 TERMS OF OFFICE (REPEALED)
- .0205 EXECUTIVE SECRETARY (REPEALED)
- .0206 COMPENSATION (REPEALED)
- .0207 QUALIFICATIONS (REPEALED)

*Statutory Authority G.S. 88-13; 88-14; 88-23; 93B-5.*



## PROPOSED RULES

### SECTION .0300 - DEFINITIONS

- .0301 DEFINITIONS (REPEALED)
- .0302 COSMETIC ART (REPEALED)
- .0303 COSMETOLOGIST (REPEALED)
- .0304 ESTABLISHMENTS (REPEALED)
- .0305 MANAGER (REPEALED)
- .0306 OPERATOR (REPEALED)
- .0307 ITINERANT COSMETOLOGIST (REPEALED)
- .0308 MANICURIST (REPEALED)
- .0309 APPRENTICE (REPEALED)

*Statutory Authority G.S. 88; 88-2; 88-3; 88-4; 88-5; 88-6; 88-7; 88-8; 88-9.*

### SUBCHAPTER 14B - RULE-MAKING PROCEDURES

#### SECTION .0100 - PETITIONS FOR RULE-MAKING

##### .0101 PETITIONS

Any person wishing to submit a petition requesting the adoption of a rule by the North Carolina State Board of Cosmetic Art Examiners shall address a petition to the Chairman of the North Carolina State Board of Cosmetic Art Examiners, Post Office Box 1108, Raleigh, North Carolina 27602, 4101 North Blvd., Suite II, Raleigh, North Carolina 27604.

*Statutory Authority G.S. 88-23; 150B-16.*

##### .0102 CONTENTS OF PETITIONS

The petition should contain the following information:

- (1) name of agency,
- (2) a draft of the proposed rule, or amendment or,
- (3) a summary of the contents of the proposed rule, or amendment,
- (4) reason for the proposal,
- (5) effect of the new rule on existing rules or orders,
- (6) data supporting the rule proposal,
- (7) effects of the rule on existing practices in the area involved, including cost factors,
- (8) names of those most likely to be affected by the rule (with addresses if known), and
- (9) name(s) and address(es) of petitioner(s).

*Statutory Authority G.S. 88-23; 150B-16.*

##### .0103 AMENDMENT OR REPEAL (REPEALED)

##### .0104 CONTENTS OF PETITIONS (REPEALED)

*Statutory Authority G.S. 88-23; 150B-16.*

##### .0105 GRANTING OR DENYING PETITIONS

~~The Chairman~~ of The North Carolina State Board of Cosmetic Art Examiners will determine, based on a study of the facts stated in the petition, whether the public interest will be better served by granting or denying the petition. ~~He or she~~ The board will consider all the contents of the submitted petitions plus any additional information deemed relevant.

*Statutory Authority G.S. 88-23; 150B-16.*

##### .0106 RECOMMENDATION

~~The Chairman~~ of The North Carolina State Board of Cosmetic Art Examiners will make such recommendations for the granting or denial of the petition for rule-making to the North Carolina State Board of Cosmetic Art Examiners.

*Statutory Authority G.S. 88-23; 150B-16.*

##### .0107 FINAL DECISION

Within 30 days of submission of the petition or at its next regularly scheduled meeting, whichever is later, the board will render a final decision. If the decision is to deny the petition, the Chairman of the North Carolina State Board of Cosmetic Art Examiners will notify the petitioner in writing stating the reasons therefor. If the decision is to grant the petition, the board, ~~within 30 days of submission~~, will initiate a rule-making proceeding by issuing a notice as provided for in 21 NCAC 14B .0202, .0203.

*Statutory Authority G.S. 88-23; 150B-16.*

### SECTION .0200 - NOTICE

##### .0201 NOTICE TO PARTIES

Upon determination to hold rule-making proceedings, either in response to a petition or otherwise, the board will give ~~20~~ 30 days notice ~~to all interested parties in the publication of the North Carolina Register of a public hearing on the proposed rule, in accordance with G.S. 150B-12.~~

*Statutory Authority G.S. 88-23; 150B-12.*

##### .0202 MAILING LIST (REPEALED)

##### .0203 PUBLIC NOTICE (REPEALED)

##### .0204 INFORMATION REQUESTS (REPEALED)

*Statutory Authority G.S. 88-23; 150B-11(1); 150B-16; 150B-23.*

## PROPOSED RULES

### SECTION .0300 - HEARINGS

#### .0301 LOCATION OF HEARINGS (REPEALED)

*Statutory Authority G.S. 88-23; 150B-23.*

#### .0302 ARGUMENTS

Any person desiring to present data, views or arguments on the proposed rule or rule change must file a notice with the Chairman of the North Carolina State Board of Cosmetic Art Examiners, Post Office Box 4408, Raleigh, North Carolina 27602, 4101 North Blvd., Suite II, Raleigh, North Carolina 27604, at least 15 days before the hearing. Such notice may be waived, or a failure to give notice may be excused by the presiding officer of the hearing for good reason. Any person permitted to make an oral presentation is encouraged to submit a written copy of the presentation to the Chairman of the North Carolina State Board of Cosmetic Art Examiners at the address listed above at least 15 days prior to the hearing.

*Statutory Authority G.S. 88-23; 150B-11(1).*

#### .0303 REQUEST FOR ORAL PRESENTATIONS

A request to make an oral presentation should contain a brief summary of the subject upon which the individual will speak and an estimation of the length of time needed. Presentations may not exceed ~~15~~ 5 minutes unless the presiding officer, either before or at the hearing, grants an extension of time for good reason.

*Statutory Authority G.S. 88-23; 150B-11(1); 150B-12.*

#### .0305 WRITTEN STATEMENT

(a) Any person may file a written statement containing data, comments or arguments in support of or in opposition to a proposed rule or rule change. Such statements may be filed before, during or for five days after the hearing by delivering the statement by mail or in person to the Chairman of the North Carolina State Board of Cosmetic Art Examiners, 443 West Hargett Street, Post Office Box 4408, Raleigh, North Carolina 27602, 4101 North Blvd., Suite II, Raleigh, North Carolina 27604.

(b) An extension of time for filing written statements may be granted either in the notice of the particular rule-making hearing or by the presiding officer of the hearing.

(c) All such submitted statements should clearly state the rule or proposed rule to which the comments are addressed.

*Statutory Authority G.S. 88-23; 150B-11(1).*

#### .0306 ACKNOWLEDGEMENT

~~Prompt~~ Acknowledgement of all written comments received by the board will be issued by the Chairman of the North Carolina State Board of Cosmetic Art Examiners.

*Statutory Authority G.S. 88-23; 150B-11(1).*

#### .0308 REQUEST FOR STATEMENT ON FINAL DECISION

Any person or agency desiring a concise statement of the principal reasons for and against the adoption of a rule by the board and the factors that lead to sustaining or overruling the considerations urged for or against its adoption may submit a request in writing addressed to the Chairman of the North Carolina State Board of Cosmetic Art, Post Office Box 4408, Raleigh, North Carolina 27602, 4101 North Blvd., Suite II, Raleigh, North Carolina 27604. Such requests may be submitted either prior to the rule-making hearing or within 30 days thereafter.

*Statutory Authority G.S. 88-23; 150B-12(e).*

#### .0309 RECORDS

(a) A record of all rule-making proceedings will be maintained as long as the rule is in effect and for five years thereafter. This record will contain the following:

- (1) the original petition or petitions;
- (2) the notice;
- (3) all written memoranda and information submitted; ~~and~~
- (4) a record or summary of oral presentations, if any; ~~and~~
- (5) any statement of reasons for and against adoption of a rule issued by the board.

(b) The record will be maintained in a file at the North Carolina State Board of Cosmetic Art Examiners' central office located at 443 West Hargett Street, Raleigh, North Carolina 4101 North Blvd., Suite II, Raleigh, North Carolina 27604.

*Statutory Authority G.S. 88-23; 150B-12(e).*

### SECTION .0400 - EMERGENCY RULES

#### .0401 POWER TO ISSUE (REPEALED)

#### .0402 LENGTH OF EFFECTIVENESS (REPEALED)

*Statutory Authority G.S. 88-23; 150B-13.*

**SECTION .0500 - DECLARATORY RULINGS**

**.0501 REQUEST FOR DECLARATORY RULING**

Any person substantially affected by a statute administered or rule promulgated by the North Carolina State Board of Cosmetic Art Examiners may request a declaratory ruling as to how the statute or rule applies to a given factual situation or whether a particular board rule is valid. ~~The Chairman of the North Carolina State Board of Cosmetic Art Examiners will have the sole power to make such declaratory rulings.~~ All requests for declaratory rulings shall be in writing and mailed to the Chairman of the North Carolina State Board of Cosmetic Art Examiners, Post Office Box 4108, Raleigh, North Carolina 27602, 4101 North Blvd., Suite H, Raleigh, North Carolina 27604.

*Statutory Authority G.S. 88-23; 150B-17.*

**.0503 REFUSAL TO ISSUE DECLARATORY RULING**

Whenever the North Carolina State Board of Cosmetic Art Examiners believes for good reason that the issuance of a declaratory ruling is undesirable inappropriate it may refuse to do so. When good reason is deemed to exist, the board will notify the petitioner of its decision in writing stating reasons for the denial of a declaratory ruling.

*Statutory Authority G.S. 88-23; 150B-17.*

**SUBCHAPTER 14C - CONTESTED CASES**

**SECTION .0100 - GENERAL RULES**

**.0101 ADMINISTRATIVE HEARINGS**

~~Whenever the board by its official action acts in such a way as to affect the rights, duties or privileges of a specific identified party, that party upon request will be given an administrative hearing. Such a hearing will be held prior to final board action on the matter if the action of the board affects a right, privilege or benefit already enjoyed by the party.~~

Whenever the board proposes to revoke or suspend a license, permit, certificate of registration or letter of approval issued by it, or to deny renewal of any license, permit certificate of registration, or letter of approval issued by it, or at any other time when it deems a hearing appropriate or legally required, it shall give

notice to the person or persons affected of the right to an administrative hearing. Such person may assert his right to a hearing by mailing or delivering to the board a written request for a hearing. The request shall be received by the board prior to the date on which the board proposes to act or such other date as may be specified in the notice except that a request mailed to the board shall be deemed timely if postmarked prior to the date on which the board proposes to act or such other date as may be specified in the notice.

*Statutory Authority G.S. 88-23; 150B-23.*

**.0102 HEARINGS (REPEALED)**

*Statutory Authority G.S. 88-23; 150B-23.*

**.0103 PRESIDING OFFICER**

If no other presiding officer has been designated by the board, or if the presiding officer if unavailable or disqualifies himself, the chairman of the board shall act as presiding officer for purposes of issuing subpoenas, ordering the production of records, responding to motions for continuances or extensions of time, controlling and ruling on issues surrounding discovery, and otherwise acting on matters arising in connection with a pending hearing and shall have all powers granted to the presiding officer under Article 3A of Chapter 150B of the North Carolina General Statutes.

*Statutory Authority G.S. 88-23; 150B-40(b).*

**SECTION .0200 - REQUEST FOR A HEARING**

**.0202 PREREQUISITES**

Before a hearing request can be made one must first make reasonable efforts to resolve the problem with the board informally. This requirement will be satisfied by contacting the Chairman of the North Carolina State Board of Cosmetic Art Examiners, Post Office Box 4108, Raleigh, North Carolina 27602, 4101 North Blvd., Suite H, Raleigh, North Carolina 27604.

*Statutory Authority G.S. 88-23; 150B-2.*

**SECTION .0300 - THE GRANTING OF HEARING REQUESTS**

**.0301 GRANTING A HEARING**

The Chairman of the North Carolina State Board of Cosmetic Art Examiners to whom the request for an administrative hearing is



made will decide whether to grant a hearing subject to the board's approval.

Upon receipt of a request for an administrative hearing from any person who has not previously been notified by the board of his right to a hearing, the board will decide promptly whether to grant the request. If the board decides to deny the request, it shall notify the requesting party of its decision and provide the requesting party of its decision and provide the requesting party with a statement of the reasons leading the board to deny the request. If the board decides to approve the request, it shall promptly issue a notice of hearing pursuant to G.S. 150B-38(b) and 21 N.C.A.C. 14C .0503.

*Statutory Authority G.S. 88-23; 150B-2; 150B-23.*

**.0302 CRITERIA (REPEALED)**

**.0303 ISSUANCE (REPEALED)**

**.0304 APPROVAL OF REQUEST (REPEALED)**

*Statutory Authority G.S. 88-23; 150B-2; 150B-11(1); 150B-23.*

#### SECTION .0500 - NOTICE

**.0501 REASONABLE NOTICE (REPEALED)**

**.0502 NOTICE AND HEARING (REPEALED)**

*Statutory Authority G.S. 88-23; 150B-23.*

**.0503 ADDITIONAL INFORMATION ON NOTICES AND HEARINGS**

In addition to the items specified in North Carolina General Statutes 150A-23 150B-38(b) to be included in the notice, it notices of administrative hearings shall include the following information:

- (1) the name, title, address and phone number of board personnel to contact for further information or discussion; and the name, position, address and phone number of a member, employee, or agent of the board to contact for further information or discussion;
- (2) notice of the date and place for any prehearing conferences; a statement that failure to inform the office of the board, within 15 days after notice is received or such longer period of time as may be specified in the hearing notice, of intent to appear at any hearing or prehearing conference scheduled in the hearing notice will be deemed a waiver of the right to a hearing;

(3) may give notice of the date and place for any prehearing conference;

(4) shall inform the party or parties, other than the board, of the right to file a written response to the allegations in the notice of hearing no later than ten days prior to any scheduled hearing date or within such other time as may be set out in the notice;

(5) when the person receiving the notice of hearing is a license, permit, or holder of a certificate of registration or letter of approval, shall provide him with an opportunity to show compliance with all lawful requirements for retention of the license, certificate, permit, or letter of approval, if such an opportunity has not been provided prior to issuance of the notice of hearing; and

(6) may include any other information deemed relevant to informing the party or parties as to the procedure for the hearing.

*Statutory Authority G.S. 88-23; 150B-38.*

**.0504 WRITTEN ANSWERS TO NOTICE**

Any person receiving notice of a contested case hearing may file a written answer within 15 days (if no period is designated in the notice), but at least prior to commencement of the contested case hearing by mailing it to the Chairman of the North Carolina State Board of Cosmetic Art Examiners, Post Office Box 4108, Raleigh, North Carolina 27602-4101 North Blvd., Suite II, Raleigh, North Carolina 27604.

*Statutory Authority G.S. 88-23; 150B-25.*

#### SECTION .0600 - WHO SHALL HEAR CONTESTED CASES

**.0601 HEARING OFFICERS**

All administrative hearings resulting from actions of the board shall be heard by the full North Carolina State Board of Cosmetic Art Examiners.

Administrative hearings before the North Carolina State Board of Cosmetic Art Examiners will normally be heard by a majority of the board.

*Statutory Authority G.S. 88-23; 150B-32.*

#### SECTION .0700 - PLACE OF HEARING

**.0701 LOCATION (REPEALED)**  
**.0702 ALTERNATIVE LOCATIONS (REPEALED)**

*Statutory Authority G.S. 88-23; 150B-24.*

**SECTION .0800 - INTERVENTION**

**.0805 WRITTEN PETITION**

A person desiring to intervene in a contested case must file a written petition with the Chairman of the North Carolina State Board of Cosmetic Art Examiners, Post Office Box 1108, Raleigh, North Carolina 27602-4101 North Blvd., Suite H, Raleigh, North Carolina 27604.

*Statutory Authority G.S. 88-23; 150B-23.*

**SECTION .0900 - HEARING OFFICERS**

**.0901 HEARING OFFICER (REPEALED)**  
**.0902 CONDUCT (REPEALED)**

*Statutory Authority G.S. 88-23; 150B-25; 150B-33.*

**.0903 BIAS OF BOARD MEMBER**

If for any reason a board member of the body conducting the hearing determines that personal bias or other factors would keep him or her from being able to conduct the hearing and perform all duties in an impartial manner, he shall submit in writing to the board Chairman of the North Carolina State Board of Cosmetic Art Examiners his disqualifications and the reasons therefor.

*Statutory Authority G.S. 88-23; 150B-25; 150B-33.*

**.0904 BIAS CLAIMED BY PARTY**

If for any reason any party in a contested case believes that a board member of the body conducting the hearing is personally biased or otherwise unable to conduct the hearing and perform all duties in an impartial manner, the party may file with the board a sworn notarized affidavit stating the reasons for such belief with the Chairman of the North Carolina State Board of Cosmetic Art Examiners, and all relevant facts.

*Statutory Authority G.S. 88-23; 150B-25; 150B-33.*

**.0905 AFFIDAVIT (REPEALED)**

*Statutory Authority G.S. 88-23; 150B-25; 150B-33.*

**.0906 FILING AFFIDAVIT**

An affidavit of disqualification will be considered timely if filed at least ten days prior to the scheduled hearing date, before commencement of the hearing. Any other affidavit may be found timely provided it is filed at the first opportunity after the party becomes aware of facts which give rise to a reasonable belief that any board member of a committee conducting a contested case hearing may be disqualified. under this Rule.

*Statutory Authority G.S. 88-23; 150B-25; 150B-33.*

**.0907 DISQUALIFICATION**

The remainder of the members of the hearing body board shall decide whether to disqualify the person being challenged by the following

- (1) The person whose disqualification is to be determined will not participate in the decision but may be called upon to furnish information to the remaining members of the hearing body board.
- (2) The Chairman of the North Carolina State Board of Cosmetic Art Examiners The board shall appoint a member of the board or the executive secretary or any other appropriate person to investigate the allegations of the affidavit, if necessary and report his or her findings or recommendations.
- (3) The investigator board shall report his or her findings and recommendations to the remainder of the members of the hearing body who will then decide whether to disqualify the challenged individual on the basis of all relevant and appropriate information available to it.
- (4) A record of the proceedings and the reasons for decisions reached will be maintained as part of the contested case record.

*Statutory Authority G.S. 88-23; 150B-25; 150B-33.*

**.0908 NEW HEARING**

When by reason of personal interest and like reasons a hearing officer or member of a hearing committee a board member is disqualified after the hearing has begun, a new hearing will be initiated if upon requested by the request of a party who filed the affidavit of personal bias if any party would be prejudiced by the denial of the request.

*Statutory Authority G.S. 88-23; 150B-25; 150B-33.*

- .0909 DISQUALIFICATION OF ENTIRE BOARD (REPEALED)
- .0910 DETERMINATION TO CONTINUE (REPEALED)
- .0911 RECORDS (REPEALED)

*Statutory Authority G.S. 88-23; 150B-25; 150B-33; 150B-34.*

#### SUBCHAPTER 14D - CONDUCT OF THE CONTESTED CASE

##### SECTION .0100 - FAILURE TO APPEAR

###### .0101 PROCEEDING WITHOUT PARTY

If a party who is served with notice fails to appear without having notified the board by contacting the Chairman of the North Carolina State Board of Cosmetic Art Examiners, Post Office Box 1108, Raleigh, North Carolina 27602, and no continuance, adjournment or like disposition is ordered, the presiding officer may proceed with the hearing in the party's absence.

Should a party who has been served with notice fail to appear at a scheduled hearing without having previously been granted a continuance, the board may either proceed with the hearing in the party's absence, order a continuance, adjournment, or like disposition, or dismiss the proceeding.

*Statutory Authority G.S. 88-23; 150B-38(h); 150B-40(a).*

###### .0102 ALTERNATIVES OF HEARING OFFICER (REPEALED)

*Statutory Authority G.S. 88-23; 150B-25.*

###### .0103 CONTINUANCES

Continuances, adjournments, and like dispositions will be granted to a party only in compelling circumstances, especially when one such disposition has been previously requested by and granted to the party. Under no circumstances is a hearing board required to grant continuances, adjournments and the like. Usually only one such postponement will be allowed.

*Statutory Authority G.S. 88-23; 150B-38(h).*

###### .0104 PETITION TO REOPEN

(a) If a hearing is conducted and if a decision is reached in the absence of a party, the party

may petition the board for a reopening of the case. Petitions will not be granted except when the petitioners show that the reason for failure to appear was justifiable and unavoidable and that fairness and justice require a reopening of the case.

(b) All petitions for reopening of the case shall be in writing and addressed to the Chairman of the North Carolina State Board of Cosmetic Art Examiners, Post Office Box 1108, Raleigh, North Carolina 27602, 4101 North Blvd., Suite H, Raleigh, North Carolina 27604. and shall contain the following information:

- (1) the name and address of the petitioner,
- (2) a full identification of the hearing which the petitioner is seeking to reopen, and
- (3) a detailed explanation of the reasons for the petitioner's desire to reopen the hearing.

*Statutory Authority G.S. 88-23; 150B-25.*

##### SECTION .0200 - PRE-HEARING CONFERENCE

- .0201 DISCRETION TO HOLD CONFERENCE (REPEALED)
- .0202 PURPOSES (REPEALED)
- .0203 NATURE OF CONFERENCE (REPEALED)
- .0204 NOTICE OF PRE-HEARING CONFERENCE (REPEALED)
- .0205 SIMPLIFICATION OF ISSUES (REPEALED)

*Statutory Authority G.S. 88-23; 150B-11(1); 150B-23; 150B-31; 150B-33(5).*

##### SECTION .0300 - SUBPOENAS

###### .0301 AUTHORITY TO ISSUE (REPEALED)

*Statutory Authority G.S. 88-23; 150B-27.*

###### .0302 ISSUANCE

Subpoenas requiring the attendance of witnesses or those to produce documents, evidence or things will be issued by the Chairman of the North Carolina State Board of Cosmetic Art Examiners or his agent within three business days of the subpoena except when the chairman determines that the request is as follows:

- (1) insufficiently specific or too vague;
- (2) frivolous; or
- (3) overly broad.

Subpoenas requiring the attendance of witnesses or those to produce documents, evidence or things will be issued by the presiding



officer promptly following receipt of a request from a party to the case for such subpoena, unless the presiding officer determines that the request is clearly, on its face, objectionable or unreasonable.

*Statutory Authority G.S. 88-23; 150B-27.*

**.0303 SERVICE OF SUBPOENAS**

(a) ~~Subpoenas shall be served as the officer issuing the subpoena shall direct, and as may be appropriate to the circumstances of the case. Subpoenas may be directed to be served by any of the following methods: may be served in any manner provided by law:~~

- ~~(1) by an employee of the board; or~~
- ~~(2) by the sheriff of the county in which the person subpoenaed resides, when the party requesting the subpoena prepays the sheriff's service fee.~~

(b) Subpoenas shall be issued in duplicate with a "Return of Service" form attached to each copy. The person serving the subpoena shall fill out the "Return of Service" form for each copy and promptly return one copy of the subpoena with the attached "Return of Service" form completed to the board.

*Statutory Authority G.S. 88-23; 150B-38(h); 150B-39(c).*

**.0304 UNREASONABLE SUBPOENAS  
(REPEALED)**

*Statutory Authority G.S. 88-23; 150B-27.*

**.0305 OBJECTIONS**

Except as may be otherwise stated in a particular subpoena, any person receiving a subpoena from the North Carolina State Board of Cosmetic Art Examiners may object thereto by filing a written objection to the subpoena with the Chairman of the North Carolina State Board of Cosmetic Art Examiners, Post Office Box 1108, Raleigh, North Carolina 27602. Any person receiving a subpoena may object there to by filing a written objection with the presiding officer.

*Statutory Authority G.S. 88-23; 150B-27.*

**.0309 HEARINGS ON SUBPOENA  
CHALLENGES**

After receipt of the objection and a response thereto, if any, the hearing board or the presiding officer shall issue a notice of hearing to the party who requested the subpoena and the party challenging it and may notify all other parties of ~~an open~~ a hearing before the board

to be scheduled within a reasonable time at which hearing evidence and testimony may be presented by all parties limited to the questions raised by the subpoena, the objection, and subsequent responses thereto.

*Statutory Authority G.S. 88-23; 150B-23; 150B-27.*

**.0310 RULINGS**

~~Promptly after the close of such hearing the hearing board will rule on the challenge and issue a written decision. A copy of the decision will be issued to all parties and will be made a part of the permanent record.~~

Promptly after the close of any hearing on an objection to a subpoena, the board will issue a written decision. Based on the evidence presented and the record, the board may revoke or modify the subpoena for good cause, based on such issues as validity of the subpoena, oppressiveness, relevancy, and other appropriate factors, or may overrule the objection to the subpoena. A written copy of the decision will be served on the person objecting to the subpoena and all parties to the hearing.

*Statutory Authority G.S. 88-23; 150B-27.*

**SECTION .0400 - DISCOVERY**

- .0401 DISCOVERY OF INFORMATION  
(REPEALED)**
- .0402 FAILURE TO SUBMIT TO  
DISCOVERY (REPEALED)**

*Statutory Authority G.S. 88-23; 150B-28.*

**SECTION .0500 - DEPOSITIONS**

- .0501 USE OF DEPOSITIONS  
(REPEALED)**
- .0502 PROCEDURE FOR TAKING A  
DEPOSITION (REPEALED)**
- .0503 RULINGS OF DEPOSITIONS  
(REPEALED)**

*Statutory Authority G.S. 88-23; 150B-28.*

**SUBCHAPTER 14E - DECISION IN  
CONTESTED CASES**

**SECTION .0100 - PROPOSALS FOR  
DECISIONS**

- .0101 HEARING OFFICERS (REPEALED)**
- .0102 PROPOSAL FOR DECISION  
(REPEALED)**
- .0103 EXCEPTIONS (REPEALED)**

*Statutory Authority G.S. 88-23; 150B-34.*

SECTION .0200 - OBJECTIONS TO BOARD DECISIONS

- .0201 FORM (REPEALED)
- .0202 RECORDS (REPEALED)
- .0203 SUBSTANTIAL PREJUDICE (REPEALED)
- .0204 ORAL ARGUMENTS (REPEALED)
- .0205 NOTICE (REPEALED)

*Statutory Authority G.S. 88-23; 150B-23; 150B-25; 150B-37.*

SUBCHAPTER 14F - RULES AND REGULATIONS GOVERNING THE LICENSING OF BEAUTY SALONS

.0001 APPLICATION FOR SALON LICENSE

Persons desiring to continue to operate or open a beauty salon, or to reopen a salon which has been closed more than 90 days in the State of North Carolina shall make application to the North Carolina State Board of Cosmetic Art Examiners on an application form COS-13 to be furnished by the board. ~~This form is more fully discussed at the end of this Subchapter.~~

*Statutory Authority G.S. 88-1; 88-23.*

- .0002 OPERATION OF A BEAUTY SALON (REPEALED)
- .0003 REOPENING A BEAUTY SALON (REPEALED)

*Statutory Authority G.S. 88-1; 88-23.*

.0004 NEWLY ESTABLISHED NON RESIDENT BEAUTY SALON

(a) ~~A building that is to be used for a newly established beauty salon or a salon to reopen for business. A newly established non residential beauty salon shall be separated and apart from any building or room used for living, dining or sleeping quarters. any other business or any other purpose separated by a solid wall of at least seven feet in height.~~

(b) The solid floor to ceiling wall of at least seven feet separating a beauty salon from other rooms in a building used for other purposes may be fitted with a doorway, provided that a solid full length door is installed in the doorway.

(c) An entrance to a beauty salon from a passage or walkway or mall area used only for access to the salon, or to the salon and other businesses, may be open.

*Statutory Authority G.S. 88-23.*

.0005 NEWLY ESTABLISHED RESIDENTIAL SALONS

Shall be separate and apart from any building or room used for any other business or purpose, separated by a solid wall of at least seven feet in height.

A newly established beauty salon, shall be separate and apart from any building or room used for living, dining or sleeping and shall be separate and apart from any other room used for any other purpose by a solid wall of ceiling height, making separate and apart rooms used for beauty salon. All entrances to the salon shall be through solid, full length doors installed in solid walls of ceiling height.

*Statutory Authority G.S. 88-23.*

.0006 WALLS AND DOORS (REPEALED)

*Statutory Authority G.S. 88-23.*

.0007 DIMENSIONS OF BEAUTY SALON

A newly established beauty salon shall ~~be a minimum of 14 feet in width and a minimum of 15 feet in length and shall maintain at least five feet of space between each styling chair from the center to the center of each chair, and shall have at least two feet of space from each chair to the wall of the salon, front and back.~~

*Statutory Authority G.S. 88-23.*

.0008 INSPECTION OF BEAUTY SALON

(a) ~~A newly established beauty salon or a salon which has been closed for whatever reason, for more than 90 days, or a salon which has changed ownership, or a salon which has been operating without a permit shall be inspected before a permit will be issued. and the fee for inspection of same shall be twenty five dollars (\$25.00). The board shall be given 30 days notice to schedule an inspection.~~

(b) Renewal fees after the initial inspection shall be three dollars (\$3.00) per active booth.

*Statutory Authority G.S. 88-1; 88-21; 88-23.*

.0009 SIGNS

A beauty salon shall be designated by a sign of not less than four inch letters at the outside entrance to said premises provided it is not contrary to a local ordinance.

*Statutory Authority G.S. 88-23.*

.0011 RENEWAL OF SALON PERMIT (REPEALED)

Statutory Authority G.S. 88-23.

**.0012 POSTPONEMENT OF RE-INSPECTION**

(a) The office of the North Carolina State Board of Cosmetic Art Examiners shall be notified at least 10 days prior to ~~an announced~~ a scheduled re- inspection if any beauty salon will not be prepared for such inspection.

(b) Notification should be sent to the Chairman of the North Carolina State Board of Cosmetic Art Examiners, ~~Post Office Box 1108, Raleigh, North Carolina 27602, 4101 North Blvd., Suite H, Raleigh, North Carolina 27604.~~

Statutory Authority G.S. 88-23.

**.0013 FAILURE TO PERMIT INSPECTION**

If an inspector is unable to inspect a salon twice with appointment, the board may initiate proceedings to revoke or suspend the salon license or may refuse to renew the salon license.

Statutory Authority G.S. 88-23.

**SUBCHAPTER 14G - REQUIREMENTS FOR THE ESTABLISHMENT OF SCHOOLS OF COSMETIC ART**

**.0002 FORMS**

Application forms may be obtained by writing ~~the Chairman of~~ the North Carolina State Board of Cosmetic Art Examiners, ~~Post Office Box 1108, Raleigh, North Carolina 27602, 4101 North Blvd., Suite H, Raleigh, North Carolina 27604.~~

Statutory Authority G.S. 88-23.

**.0003 SPACE REQUIREMENTS**

(a) The North Carolina State Board of Cosmetic Art Examiners will issue letters of approval only to schools or colleges having at least 3,000 square feet of inside floor space, located within the same building with 30 stations to be arranged to accommodate not less than 30 students, and arranged so that the course of study and training is cosmetic art, as prescribed by the board may be given. All stations shall be numbered numerically.

(b) The beginners department shall have sufficient space comfortably to accommodate at least ten students and shall have at least 40 inches between mannequins.

Statutory Authority G.S. 88-23.

**.0004 NUMBER OF STUDENTS**

Schools approved with 3,000 square feet of inside floor space may enroll no more than 60 students at any one time, and for each student enrolled in addition to 60 students, 50 square feet of floor space must be provided in the beauty school.

Statutory Authority G.S. 88-23.

**.0005 ADDITIONAL STUDENTS (REPEALED)**

Statutory Authority G.S. 88-23.

**.0008 VISITATION**

Upon request the board shall visit the school and finding it in order as set out in 21 NCAC 14G .0001 to ~~14G .0007~~, 14G .0006, shall on that date issue a letter of approval.

Statutory Authority G.S. 88-23.

**.0011 CHANGE OF LOCATION: OWNERSHIP OR MANAGEMENT**

If the location of the school is changed, a new letter of approval will be necessary, or if there is a transfer of ownership or management of the school, either by sale, lease or otherwise, a new approval application is required. The same shall be reported within 10 days of such change to the board, and application made for letter of approval. The school must meet the same conditions and requirements as a new beauty school in order to obtain a letter of approval. The letter of approval may be retroactive to the date of change or fraction therefore, of location, ownership or management if the school was in operation under a valid letter of approval at the time of this change and if the application for a new letter of approval is timely made.

Statutory Authority G.S. 88-23.

**.0012 CONDITION OF EQUIPMENT**

All equipment in the school must be new ~~and of a modern type.~~ or in good, workable, safe condition. All equipment and supplies shall be kept clean and in first class condition.

Statutory Authority G.S. 88-23.

**.0013 INSTRUCTORS**

One instructor must be provided for ~~the first~~ every 20 students or a fraction thereof enrolled; two instructors for 21 to 40 students; three instructors for 41 to 60 students enrolled; four instructors for 61 to 80 students enrolled; five



~~instructors for 81 to 100 students enrolled; and one instructor for every 20 students enrolled thereafter.~~ "Students enrolled" includes students enrolled for night classes. The above ratio must be adhered to at all times the school is in operation. High School Cosmetology programs, because of the many differing requirements of their operation, must have prior board approval of their instructors and student ratio. Refer to Rule .0014.

Statutory Authority G.S. 88-23.

**.0014 SCHOOL AFFILIATION WITH BEAUTY SHOPS AND OTHER BUSINESSES**

Beauty shops or any other business shall not be operated in connection with beauty schools or colleges. Refer to Rule .0014.

Statutory Authority G.S. 88-23.

**.0016 RE-EVALUATION OF SCHOOLS**

The North Carolina State Board of Cosmetic Art Examiners reserves the authority to re-evaluate any school at any time.

Statutory Authority G.S. 88-23.

**SUBCHAPTER 14H - SANITATION**

**.0009 VENTILATION AND LIGHT**

(a) All doors and windows shall be kept clean and if open for ventilation, shall be effectively screened.

(b) Necessary ventilation shall be provided at all times.

(c) Adequate light shall be provided for each operator.

Statutory Authority G.S. 88-23.

**.0010 BATHROOM FACILITIES**

(a) Toilet and hand washing facilities consisting of at least one commode and one lavatory with hot and cold running water, soap and individual towels shall be provided.

(b) It is suggested if both sexes are employed or served, separate facilities for each sex equal to the minimum requirements in (a) of this Rule shall be provided.

(c) Residential beauty salon shall furnish bathroom facilities separate and apart from residence.

Statutory Authority G.S. 88-23.

**.0012 CLEANLINESS OF CLINIC AREA**

**AND SUPPLIES AND EQUIPMENT**

(a) The clinic area shall be kept clean.

(b) Waste material shall be kept in suitable covered receptacles. The area surrounding the waste receptacles shall be maintained in a neat and sanitary manner.

(c) Sanitation rules which apply to towels and cloths are as follow:

(1) Separate and clean towels shall be used for each patron.

(2) After a towel has been used once, it shall be discarded and placed in a clean, closed container until properly laundered.

(3) Clean towels shall be kept in a closed cabinet, free from dust or dirt, until ready for use.

(4) Chair cloths and shampoo aprons shall be kept clean and shall not be allowed to come in direct contact with the patron's neck.

(d) The head rest of an operating chair shall be covered with a clean towel or other sanitary covering before being used.

(e) At least six combs and brushes must be provided for each operator. All combs and brushes shall be thoroughly cleansed after each use in the following manner:

(1) They shall be cleaned with soap and hot water;

(2) They must be sanitized by being covered for 20 minutes in a five percent phenol, ~~50~~ 70 percent alcohol, and 10 percent Lysol solution; ~~or Chlorine solution.~~

~~(3) They may be sanitized by being covered for 30 minutes in a five percent formaldehyde solution; or~~

~~(4) (3) They may be sanitized by being covered for 30 minutes in other sanitizing solutions approved by the North Carolina State Board of Cosmetic Art Examiners;~~

~~(5) (4) They must be removed from the solution and dried thoroughly with a clean towel. and~~

~~(6) They must be placed in a clean, closed cabinet and exposed to the fumes of formaldehyde until used.~~

Statutory Authority G.S. 88-23.

**.0013 CLEANLINESS OF JARS: GLASS: METAL AND OTHER EQUIPMENT**

(a) All jars, glass and metal articles shall be cleaned in the following manner:

~~(1) They shall be boiled for 20 minutes; or~~

~~(2) (1) They shall be cleansed with soap and hot water;~~

- ~~(3)~~ (2) They shall be sanitized in 70 percent alcohol or chlorine solution; and
- ~~(4)~~ (3) They shall be kept in a closed cabinet, and until used.
- ~~(5)~~ They shall be exposed to the fumes of formaldehyde until used.

(b) Furniture, equipment and other fixtures shall be of a washable material and kept clean and in good repair. Electrical equipment shall be clean and in good repair. Suntan beds shall be considered part of fixtures in a beauty salon.

*Statutory Authority G.S. 88-23.*

#### SUBCHAPTER 14I - OPERATIONS OF SCHOOLS OF COSMETIC ART

##### SECTION .0100 - RECORD KEEPING

###### .0101 PERMANENT FILES

(a) A section of the school shall contain at least a suitable desk, chair and a permanent file suitable for permanent records of matriculations of all students enrolled.

(b) Permanent files shall be kept under lock and key, subject to inspection by the North Carolina State Board of Cosmetic Art Examiners or its authorized agents.

(c) Included in this file shall be permanent records of the matriculations of all students enrolled including the following:

- (1) names and addresses of students,
- (2) places and dates of birth,
- (3) Social Security number,
- ~~(4)~~ (4) date students entered school,
- ~~(5)~~ (5) number of hours earned,
- ~~(6)~~ (6) complete breakdown of practical work performed by the student,
- ~~(7)~~ (7) grades on all examinations taken by the student, and
- ~~(8)~~ (8) date of graduation.

(d) The original copy of all enrollment blanks is to be filed with the North Carolina State Board of Cosmetic Art Examiners, and the duplicate is to be held by the school.

*Statutory Authority G.S. 88-23.*

###### .0103 OTHER REPORTS AND INSPECTIONS

(a) In addition to such other reports as may be required by the board, including reports of matriculation, schools and colleges of beauty culture shall report to the board or its authorized agent, upon inspection of the school or college and at other times upon specific request, the names of all students currently enrolled and the hours completed by each of such students.

(b) The owner or manager of the school or college shall read each inspection made of the school or college by an authorized agent of the board to determine that the information on the inspection report is correct before signing the report made by the agent. If any part of the information on the report is incorrect, it should be corrected before signing.

(c) A report of all hours earned by each student shall be mailed to the State Board of Cosmetic Art by the 15th of each month covering the hours earned.

(d) Reports shall be mailed in on forms approved by the board.

(e) The state board office must be notified by letter prior to demonstrators, lecturers or observers being in the school.

*Statutory Authority G.S. 88-23.*

###### .0104 WITHDRAWALS

(a) When a student who is enrolled in a school or college of beauty culture withdraws from such school, whether by reason of transfer to another school or college, dismissal, suspension, voluntary disenrollment, or for any reason other than graduation, a report thereof shall be forwarded to the board within 20 days of withdrawal.

(b) Such report shall contain the following:

- (1) name of the student,
- (2) Social Security number,
- ~~(2)~~ (3) the last date of attendance,
- ~~(3)~~ (4) the reason for withdrawal (if known), and
- ~~(4)~~ (5) the hours completed at the time of withdrawal.

*Statutory Authority G.S. 88-23.*

###### .0105 TRANSFER OF CREDIT

(a) In order that hours may be transferred from one school to another a student must pass an entrance examination given by the school the student is transferring to, covering the portion of work completed in the previous school or schools attended.

~~(b) A statement to the effect that such an examination has been given and passed must be forwarded to the office of the North Carolina State Board of Cosmetic Art Examiners under the seal of the school along with the enrollment application.~~

~~(c)~~ (b) A student must complete at least 250 hours in the school certifying his or her application for the state board examination.

*Statutory Authority G.S. 88-23.*

**.0106 STUDENT DAILY RECORDS**

All daily records kept on students must be kept in the permanent files for future reference against weekly reports until a student has been accepted for the state board examination. For students that don't apply for State Board, their records can be destroyed ten years after the date of original enrollment.

*Statutory Authority G.S. 88-23.*

**.0107 ENROLLMENT WITH STATE BOARD OFFICE**

(a) Matriculations shall be filed in the office of the North Carolina State Board of Cosmetic Art Examiners not later than 30 days after the student enrolls in school. If enrollment is not received within 30 days, a copy of daily time records are required.

(b) Students who have not been properly enrolled with the state board office will not be accepted for the examination given by the board, and no hours will be credited by the board.

(c) North Carolina State Board of Cosmetic Art Examiners statement of purpose for Cosmetology Education. Receipt of this must be signed by student and returned to state office.

*Statutory Authority G.S. 88-23.*

**.0109 GRADUATION**

(a) The manager of each school shall compile, from the school records, a summary of each student's grades, hours, live model performance completions, date of enrollment and last date of attendance which shall be presented to the student upon graduation or the last date of attendance.

(b) This summary shall be signed by the manager, ~~or~~ instructor, and student; and shall have the seal of the beauty school affixed.

*Statutory Authority G.S. 88-23.*

**SECTION .0300 - CLASSROOMS**

**.0302 LIBRARY**

(a) A small library of reference books shall be placed in the ~~classroom~~ made available for the use of students. students use, covering all ethnic cultures.

(b) In addition to the textbooks used, the library shall contain a standard dictionary, a dictionary of medical words, a book on wig, a book on the art of manicuring, a book on chemistry relative to cosmetology, a book on beautician's guide to beauty, charm and poise,

a book on the history of beauty culture and the book of "Gray's Anatomy," a medical dictionary and any other books relative to all fields of Cosmetology.

*Statutory Authority G.S. 88-23.*

**SUBCHAPTER 14J - CURRICULUM**

**SECTION .0100 - BEGINNERS' DEPARTMENT**

**.0103 TIME REQUIREMENTS ACCORDING TO HOURS**

(a) The maximum time a student is allowed to stay in the beauty school in any one day shall be eight clock hours.

(b) At no time shall a student be credited with more than eight hours in any one day and hours earned on one date cannot be credited to another day.

(c) Each student must complete 1200 hours in an approved beauty school or college before applying to the board for examination, except those students enrolled for the manicurist course only.

(d) Each student shall spend 300 hours in the beginners' department before entering the advanced department and shall not work on members of the public during this 300 hours.

(e) Hours earned in the beginners' department shall be devoted to scientific study, sanitization, and mannequin practice as outlined in 21 NCAC 14J .0104 and .0105.

(f) Manicuring practice in this department shall be done on the students enrolled in the school during the first 300 hours.

*Statutory Authority G.S. 88-23.*

**.0104 SCIENTIFIC STUDY AND PRACTICE**

The course of scientific study as proscribed for beginning cosmetology students shall be as follows:

- (1) N.C. law as it pertains to cosmetology--  
~~40~~ 5 hours;
- (2) sanitation, sterilization and first aid-- ~~20~~  
10 hours;
- (3) bacteriology-- ~~40~~ 5 hours;
- (4) anatomy-- ~~40~~ 5 hours;
- (5) grooming and personal hygiene--10 hours;
- (6) skin, scalp, hair, nails and their common disorders and diseases --10 hours;
- (7) chemistry pertaining to cosmetic art--10 hours; and
- (8) professional ethics--10 hours; and
- (9) manicuring--5 hours.



*Statutory Authority G.S. 88-23.*

**.0105 MANNEQUIN PRACTICE**

Practice of cosmetic beauty techniques on mannequins for beginning students shall be as follows:

- (1) scalp treatments--5 hours;
- (2) shampooing and rinsing--5 hours;
- (3) hair dyeing and bleaching--30 hours;
- (4) hairdressing and combing--50 hours;
- (5) finger waving, pincurling and roller placement--50 hours;
- (6) hair cutting--20 hours;
- (7) permanent waving, marcelling, croquignole or hair pressing--30 hours;
- (8) frosting and streaking--10 hours; ~~and~~
- (9) wigs, care and styling--10 hours; ~~and~~
- (10) electrical curling iron, and blow dryers--20 hours.

*Statutory Authority G.S. 88-23.*

**.0106 EQUIPMENT FOR BEGINNERS**

The beginners' department shall be equipped with the following minimum equipment for every 20 students in the department:

- (1) one ~~new~~ manicure table and stool,
- (2) two ~~new~~ shampoo bowls and chairs,
- (3) two ~~new~~ hearing heating caps,
- (4) ~~twelve one~~ mannequins with hair pieces for each, per student.
- (5) ~~twelve three~~ marcel heaters (~~optional~~), three electrical curling irons.
- (6) one slide projector and slides,
- (7) one ~~new~~ mannequin practice table to accommodate at least ten students,
- (8) ~~one marcel iron for each student enrolled in the department (optional).~~
- (9) (8) sufficient cold wave rods for each student in the department; and
- (10) (9) two steamer caps (~~optional~~), pressing comb per student.

*Statutory Authority G.S. 88-23.*

**SECTION .0200 - ADVANCED DEPARTMENT**

**.0204 COURSE WORK REQUIREMENT**

The course work done by advanced students shall be as follows:

- (1) Lectures on scientific study--10 hours;
- (2) chemistry, as necessary to the practice of cosmetic art-- 10 hours;
- (3) anatomy--10 hours;
- (4) bacteriology--10 hours;
- (5) skin, scalp, hair, nails and their common disorders--20 hours;

- (6) grooming and personal hygiene--5 hours;
- (7) pin curling, finger waving, ~~and~~ rollers and combing --25 hours;
- (8) ~~combing --20 hours;~~ electrical curling iron and blow dryers --20 hours;
- (9) permanent waving, marcelling, croquignole or hair relaxing--35 hours;
- (10) hair coloring and bleaching--25 hours;
- (11) salesmanship--10 hours;
- (12) manicuring--10 hours;
- (13) cosmetics--10 hours;
- (14) scalp treatments--10 hours;
- (15) roller placement and pin curl placement and directional waving for design--10 hours;
- (16) wig care and styling--10 hours;
- (17) frosting and streaking--10 hours;
- (18) professional ethics--10 hours; and
- (19) sanitation and sterilization--20 hours.

*Statutory Authority G.S. 88-23.*

**.0205 LIVE MODEL PERFORMANCE REQUIREMENTS**

(a) The following live model performance completions shall be done by each student in the advanced department before the student is certified to the North Carolina State Board of Cosmetic Art Examiners for the examination:

- (1) hair and scalp treatments--30 hours -- 15 performance completions;
- (2) hairstyling and shampooing--200 hours -- 150 performance completions;
- (3) tinting and bleaching--50 hours -- 6 performance completions;
- (4) frosting and streaking--20 hours -- 4 performance completions;
- (5) temporary rinses--10 hours -- 20 performance completions;
- (6) semi permanent rinses--5 hours -- 7 performance completions;
- (7) cold permanent waving--150 hours -- 10 performance completions;
- (8) Marcelling, croquignole and permanent relaxing--35 hours -- 15 performances;
- (9) facials, massages, packs, eyebrow arching--15 hours -- 10 performance completions;
- (10) lash and brow tinting--10 hours -- 4 performance completions;
- (11) manicuring and hand and arm massage--20 hours -- 10 performance completions;
- (12) hair shaping--100 hours -- 25 performance completions; and
- (13) wig care and styling--20 hours -- 10 performance completions; and

(14) electric curling iron and blow dryers-  
-10 hours -- 10 performances.

(b) Certification of these live model performance completions will be required along with the application for the examination.

*Statutory Authority G.S. 88-23.*

#### **.0206 EQUIPMENT IN ADVANCED DEPARTMENT**

The advanced department shall be equipped with the following minimum equipment: ~~for every 25 students in the department:~~

- (1) four ~~new~~ manicure tables and stools,
- (2) eighteen ~~new~~ dryers and chairs,
- (3) eight ~~new~~ shampoo bowls and chairs,
- (4) three ~~new~~ heating caps or one conditioning machine,
- ~~(5) three new steamer caps (optional);~~
- ~~(6) (5) thirty new dressing tables and styling chairs,~~
- ~~(7) (6) three new facial chairs,~~
- ~~(8) (7) twelve six marcel heaters, (optional);~~
- ~~(9) (8) marcel irons for each student enrolled, (optional); and~~
- ~~(10) (9) sufficient cold wave rods for each student enrolled in the department.~~

*Statutory Authority G.S. 88-23.*

#### **SECTION .0300 - COMBINED STUDIES**

##### **.0302 EQUIPMENT**

Each school or college shall provide the following equipment or supplies for use in the training and teaching of all students:

- (1) two therapeutic lamps,
- (2) ~~two one~~ vibrators,
- (3) ~~six glass droppers;~~
- ~~(4) (3) four sets one set~~ standard measuring spoons,
- ~~(5) twelve standard measuring cups; and~~
- ~~(6) (4) wet and dry sterilizers of sufficient size to sterilize properly all tools and supplies used by students.~~

*Statutory Authority G.S. 88-23.*

##### **.0303 STUDENTS' PERSONAL SUPPLIES**

Each student shall have the following minimum supplies:

- (1) manicure supplies and implements for a complete manicure;
- (2) six combs;
- (3) six brushes;
- (4) sufficient pin curl clips;
- (5) sufficient smooth rollers;
- (6) one marcel comb;

(7) one ~~hot comb (optional);~~ electric curling iron;

(8) one razor;

(9) two scissors, tapered and straight;

(10) one eyebrow tweezer; ~~and~~

(11) one tint comb;

(12) one blow dryer; and

(13) one copy of "An Act to Regulate the Practice of Cosmetic Art in the State of North Carolina" issued by The State Board of Cosmetic Art Examiners.

*Statutory Authority G.S. 88-23.*

##### **.0304 CONDITION OF EQUIPMENT**

All equipment in the school must be new ~~and of modern type or in good, workable safe condition~~ and kept in first class condition.

*Statutory Authority G.S. 88-23.*

##### **.0305 TEACHING PROGRAM**

Each beauty school or college shall adopt and use a teaching program ~~of their choice.~~ approved by the board.

*Statutory Authority G.S. 88-23.*

#### **SECTION .0400 - COURSE OF STUDY**

##### **.0402 PRACTICAL ASPECTS OF STUDY**

Practical aspects of study shall be as follows:

- (1) the systematic massaging ~~with hands and mechanical apparatus~~ of the scalp, face, neck, shoulders and hands;
- (2) the use of cosmetic preparations and antiseptics;
- (3) manicuring;
- (4) cutting hair;
- (5) dyeing hair, eyebrows and lashes;
- (6) cleansing of scalp and hair;
- (7) arranging, dressing, and waving hair. ~~and~~
- ~~(8) use of electricity for stimulating growth of hair.~~

*Statutory Authority G.S. 88-23.*

##### **.0403 RELATIVE SUBJECTS**

(a) Relative subjects shall be taught as necessary in, or as applied to, the practice of cosmetology.

(b) Relative subjects of study shall be as follows:

- (1) physiology;
- (2) dermatology;
- (3) bacteriology;
- (4) anatomy and especially pertaining to head, face, shoulders, arms and hands;
- (5) chemistry of cosmetic practice;

- (6) care of the skin and its appendages;
- (7) sanitation;
- (8) myology and especially pertaining to the face, neck, shoulders and arms;
- (9) angiology;
- (10) neurology;
- (11) osteology;
- (12) ethics and shop management;
- (13) diseases of the scalp and skin;
- (14) stimulation--mechanical, chemical, thermal, nerve impulses;
- (15) ~~electricity - high - frequency, faradic, galvanic, and~~
- (16) (15) the use of electrical instruments, dryers, permanent waving machines, vibrators, therapeutic lamps, and steamers.

Statutory Authority G.S. 88-23.

#### .0404 TESTS

Written ~~and oral~~ tests and examinations shall be given in all subjects.

Statutory Authority G.S. 88-23.

### SUBCHAPTER 14K - MANICURIST TRAINING

#### .0002 COURSE OF STUDY

The following course of study is required by the North Carolina State Board of Cosmetic Art Examiners before application is made to the board for examination and each student shall be given a complete course in the same:

- (1) 100 hours of actual practice in manicuring including trimming, filing, nail sculpturing, shaping, decorates and applies sculptured or otherwise artificial nails,
- (2) ~~25~~ 10 hours of arm and hand massage, ~~and~~
- (3) ~~25~~ 10 hours of theory and salesmanship as it relates to manicuring,
- (4) 15 hours sanitization, and
- (5) 15 hours bacteriology.

Statutory Authority G.S. 88-8; 88-23.

### SUBCHAPTER 14L - TEACHING STAFF

#### SECTION .0100 - TEACHER EXAMINATIONS

##### .0101 QUALIFICATIONS

No person shall be eligible to take an examination to be certified as a teacher of cosmetic arts unless he or she has the following qualifications:

- (1) at least five years experience as a registered cosmetologist practicing cosmetic art

in a beauty shop immediately prior to applying for examination; and

- (2) is a licensed cosmetologist who has practiced as a registered cosmetologist in an approved beauty salon at least six months and has completed at least 400 hours of teacher training in an approved beauty school or college, consisting of the following:

- (a) 0 to 200 hours orientation unit planning, daily lesson planning and clinic management planning all under the supervision of a licensed instructor;
- (b) 200 to 400 hours to be used by the trainee in conducting theory classes, practical demonstrations and clinic management under the direct supervision of a licensed instructor;
- (3) must be registered with the board before entering the teacher training program ~~in order to receive credit toward qualification for regular teachers examination; and a copy of his/her high school diploma must be attached to the enrollment;~~
- (a) Under no condition are hours for credit retroactive prior to registration with the board;
- (b) At no time shall the trainee do clinical work in the school;
- (4) must comply with present regulations requiring a high school diploma or equivalency;
- (5) must pay an application for examination fee of ~~twenty five dollars (\$25.00), fifty dollars (\$50.00) plus ten dollars (\$10.00) license fee.~~
- (6) All teachers taking the State Board Examination will be required to take both cultures before being issued a license.

Statutory Authority G.S. 88-23.

#### .0103 SUBSTITUTES

A licensed cosmetologist will be allowed to substitute for the teacher in a school or college for no more than 10 days in one full year, provided the person who is substituting is registered with the office of the North Carolina State Board of Cosmetic Art Examiners prior to the date. The North Carolina State Board of Cosmetic Art Examiners may for a good reason extend the number of days a cosmetologist may substitute for a single teacher.

Statutory Authority G.S. 88-23.

### SECTION .0200 - STUDENT INSTRUCTOR TRAINEE PROGRAM



**.0204 GRADES REQUIRED FOR DIFFERENT PROGRAMS**

(a) A passing score of 70 percent on both practical and the theory on the special examination, that is to be given by the members of the board, will qualify the instructor trainee for the Registered Apprentice License.

(b) A score of at least 85 percent on both practical and theory, on the special examination given by the members of the board, will qualify those requesting permission to be a student instructor trainee.

(c) A letter will be mailed to the school or college to give permission for the successful applicant to continue in the school or college to train toward their teachers examination.

(d) Applicants, for trainees, who make less than 85 percent on both practical and theory on the examination will not be permitted to continue in the school or college ~~in the trainee program~~ unless student re-applies within 30 days of the date of examination

*Statutory Authority G.S. 88-23.*

**.0205 DIVISION OF CURRICULUM DURING TRAINING**

The division of the curriculum during the training period for student instructors shall be as follows:

- (1) 0 to 50 hours -- to be devoted to orientation on the theory of teaching;
- (2) 50 to 400 hours -- unit planning, daily lesson planning and clinic management under teacher supervision;
- (3) 400 to 1000 hours -- to be used by the student in conducting theory classes, practical demonstrations and clinic management under the direct supervision of a licensed teacher.

*Statutory Authority G.S. 88-23.*

**.0206 CURRICULUM AND COURSE WORK**

The curriculum of the student instructor training period shall consist of the following:

- (1) Orientation (0-50 hours):
  - (a) supervised introduction to methods and techniques used by the training instructor;
  - (b) supervised introduction to materials, equipment, various contracts, applications and examination forms from the North Carolina State Board of Cosmetic Art Examiners;
  - (c) introduction to rules and regulations of the school;

- (d) explanation of importance of harmonious teacher-student patron relationship;
  - (e) instruction in the preparation of lesson plans;
  - (f) instruction in the planning of class lectures and presentations;
  - (g) instruction in the preparation of all types of examinations; and
  - (h) observation of all lectures by licensed teachers.
- (2) Practical clinic management (50-400 hours):
    - (a) During the second phase of the student instructor training, he or she shall observe all class lectures while preparing for his first class lecture;
    - (b) All management training shall be under practical supervision of the managing teacher or another teacher designated by the owner;
    - (c) The student instructor shall begin the preparation of daily lesson plans, and examinations;
    - (d) It is expected that the trainee will utilize, when applicable, chemistry in conjunction with the basic text material;
    - (e) A daily lesson plan with examinations will be required in most subject areas; and
    - (f) Areas which will be covered in the practical clinic management section of the instructor training will be the following:
      - (i) North Carolina State Board of Cosmetic Art Examiners rules and regulations;
      - (ii) Sanitation and sterilization (shop, school);
      - (iii) Cold waving;
      - (iv) Hair shaping and hair cutting;
      - (v) Hair and scalp treatment;
      - (vi) Hair coloring, bleaching, temporary, semi-permanent to include wigs and hair pieces;
      - (vii) Hairstyling;
      - (viii) Manicuring;
      - (ix) Chemical hair relaxing;
      - (x) Professional and personal operator development;
      - (xi) ~~Iron curling~~ Electric curling iron;
      - (xii) Chemistry of hair; ~~and~~
      - (xiii) Lash and brow tint and arches; and
      - (xiv) Blow dryer;
  - (3) Classroom teaching and clinic management (400-1000 hours): During the third phase of this training, the student instructor shall conduct theory and practical classes, preparing daily lesson

plans and examinations on each lesson taught.

*Statutory Authority G.S. 88-23.*

**.0208 SUPERVISION OF STUDENT INSTRUCTOR TRAINEE**

At no time shall a student instructor trainee be left in school without supervision of a licensed teacher. Violation of this Rule shall be just cause to revoke the permission ~~given by the members of the board to remain in the school as a trainee.~~ to conduct the student trainee program for a period of one year.

*Statutory Authority G.S. 88-23.*

**.0209 TIME REQUIREMENTS**

(a) The student instructor trainee program shall be a full time program for those given permission by the members of the board. Credit of time will be given from the time the examination application is received in the office of the state board, provided they pass the Student Trainee Examination with a grade of 85 percent on both parts.

(b) A full time program means the trainee shall be present all day, each day the school is open for business, unless out because of illness, or the attending of a teacher training course as required by the board.

(c) The office of the board shall be advised in case of absence of the trainee.

(d) The student instructor trainee shall not be given credit for more than eight hours per day.

(e) A record of the hours earned as a trainee each day shall be kept subject to an inspection.

*Statutory Authority G.S. 88-23.*

**.0214 LICENSING**

(a) A student instructor trainee must apply for a cosmetologist license upon completion of six months apprenticeship as a student instructor trainee.

(b) To secure the cosmetologist license, the affidavit must be completed showing the date beginning and the date ending, the name of the school, the teacher's name and cosmetologist license number and have this information and the signature of the teacher (cosmetologist) notarized.

(c) The affidavit, the apprentice license of the trainee, and the required fee for securing the cosmetologist license must be submitted to the board.

(d) After completing the student instructor trainee requirements as outlined in 21 NCAC 14L .0200, the trainee must apply, by letter, to the board for the examination for a teacher's certificate.

(e) The fee for this examination will be ~~twenty-five dollars (\$25.00).~~ fifty dollars (\$50.00), plus a ten dollar (\$10.00) license fee.

(f) The trainee must be issued a cosmetologist license before he or she can qualify to apply for the teacher's examination.

*Statutory Authority G.S. 88-23.*

**SUBCHAPTER 14M - FORMS**

**.0001 DESIGNATIONS**

The forms used by the North Carolina State Board of Cosmetic Art Examiners will be known by the following titles and numerical designations:

- (1) Application for Approval of Beauty School -- Form COS-1;
- (2) Deficiency Form -- Form COS-2;
- (3) Certification of Enrollment of Students Entering School Since June 30, 1933 -- Form COS-3;
- (4) Application for Out-of-State Applicants -- Form COS-4;
- (5) Application for Apprentice Certificate of Registration -- Form COS-5;
- (6) Affidavit of Apprenticeship -- Form COS-6;
- (7) Examination Notice -- Form COS-7;
- (8) Enrollment for Manicurist Student -- Form COS-8;
- (9) Application for Manicurist Certificate of Registration -- Form COS-9;
- (10) Application for Instructor Examination -- Form COS-10;
- (11) Application for Re-Examination of Licensed Instructors -- Form COS-11;
- (12) Inspector's Report -- Form COS-12;
- (13) Salon license application -- Form COS-13;
- (14) Monthly report of students credited hours -- Form COS-14;
- (15) Copies;
- (16) Access to Forms.

*Statutory Authority G.S. 88-23.*

**.0004 FORM COS-3**

Form COS-3 reports enrollment of students who have entered a particular school since its founding or June 30, 1933, whichever is later. It requires information such as the following:

- (1) name, address, ~~and~~ birth date of student and social security number;
- (2) race; and
- (3) date entered school.

*Statutory Authority G.S. 88-23.*

**.0005 FORM COS-4**

Form COS-4 is an application form for out-of-state practitioners who wish to become licensed in North Carolina. It requires information such as the following:

- (1) name, ~~and~~ address, ~~and~~ state of residency and social security number,
- (2) length of time in practice,
- (3) license number(s) for other state or states, and
- (4) experience.

*Statutory Authority G.S. 88-23.*

**.0006 FORM COS-5**

(a) Form COS-5 is an application for an apprentice certificate of registration. It requires information such as the following:

- (1) name and address of applicant and social security number,
- (2) name and address of school attended, and
- (3) educational experience.

(b) The form must be notarized before submitting it to the board.

(c) Two checks must accompany this form; a check in the amount of five dollars (\$5.00) to cover the examination fee; and a check in the amount of ~~four dollars (\$4.00)~~ five dollars (\$5.00) to cover the apprentice license.

*Statutory Authority G.S. 88-23.*

**.0014 COPIES**

Copies of all forms may be obtained by writing the Chairman of the North Carolina State Board of Cosmetic Art Examiners, 413 West Hargett Street, Post Office Box 4108, Raleigh, North Carolina 27602, 4101 North Blvd., Suite II, Raleigh, North Carolina 27604.

*Statutory Authority G.S. 88-23.*

**.0015 ACCESS TO FORMS**

The forms described in 21 NCAC 14M are on file at the North Carolina State Board of Cosmetic Art Examiners, 413 West Hargett Street, Raleigh, North Carolina 27602, 4101 North Blvd., Suite II, Raleigh, North Carolina 27604, and can be inspected during regular office hours.

*Statutory Authority G.S. 88-23.*

**.0016 FORM COS-13**

Salon license applications shall be mailed to the state board office for a new license or annual renewal.

*Statutory Authority G.S. 88-23.*

**.0017 FORM COS-14**

Monthly report of students credited hours shall be mailed to the state board office by the 15th of each month by the school or college.

*Statutory Authority G.S. 88-23.*

\* \* \* \* \*

*Notice is hereby given in accordance with G.S. 150B-12 that the North Carolina State Board of Examiners of Electrical Contractors intends to amend regulation cited as 21 NCAC 18.1606.*

*The proposed effective date of this action is April 1, 1988.*

*The public hearing will be conducted at 10:00 a.m. on January 14, 1988 at Office of NC State Board of Examiners of Electrical Contractors, 1200 Front Street, Suite 105, Raleigh, North Carolina 27609.*

*Comment Procedures: Interested persons may present statements either orally or in writing at the public hearing or in writing prior to the hearing by mail addressed to the State Board of Examiners of Electrical Contractors, Box 18727, Raleigh, NC 27619.*

**CHAPTER 18 - BOARD OF EXAMINERS OF ELECTRICAL CONTRACTORS**

**SECTION .1600 - GENERAL PROVISIONS**

**.1606 ADMINISTRATIVE HEARING PROCEDURES**

(a) Subchapters 2B and 2C of the Model Administrative Procedures for Rule Making and Hearings, Codified as Title 22, NCAC, effective September 20, 1980, are hereby adopted by reference. In applying 22 NCAC, Subchapters 2B and 2C, to this board, the definitions contained in 22 NCAC 2A .0005 shall apply as modified herein.



(1) "Agency" means the State Board of Examiners of Electrical Contractors.

(2) "Agency address" means:  
State Board of Examiners of Electrical Contractors

1200 Front Street, Suite 105

P. O. Box 18727

Raleigh, North Carolina 27619

(3) "Agency head"

(A) In the context of final agency decisions, "agency head" means the board.

(B) In the context of the board granting administrative authority, "agency head" means the executive director of the board.

(b) Copies of 22 NCAC Subchapters 2B and 2C and 22 NCAC 2A .0005 are on file in the board's office and may be inspected in that office. Copies may be obtained from the board or from the Administrative Procedures Section of the Attorney General's Office, 107 Fayetteville Street, Raleigh, North Carolina, at a charge of four dollars (\$4.00).

The rules establishing procedures for contested cases adopted by the Office of Administrative Hearings as contained in Title 26, Chapter 3 of the North Carolina Administrative Code are hereby adopted by reference, as provided for in G.S. 150B-14(c), for contested cases for which this agency has authority to adopt rules under G.S. 150B-38(h). Provided, however, that if the case is conducted under G.S. 150B-40(b), the presiding officer shall have the powers and duties given to the Chief Administrative Law Judge or the presiding Administrative Law Judge in Title 26, Chapter 3 of the North Carolina Administrative Code and that 26 NCAC 3 .0001(2); .0002(a)(1); .0003(b); .0025; and .0026 shall not apply. Copies of Title 26, Chapter 3 of the North Carolina Administrative Code are on file in the board's office and may be obtained therefrom.

Statutory Authority G.S. 87-42; 87-47; 150B-14(a)(4); 150B-38(h).

\* \* \* \* \*

Notice is hereby given in accordance with G.S. 150B-12 that the Department of Human Resources intends to adopt regulations cited as 21 NCAC 32H .0407; .0505; amend regulations cited as 21 NCAC 32H .0101 - .0102; .0201 - .0202; .0301 - .0303; .0401 - .0406; .0501 - .0504; .0601 - .0602; .0701 - .0702; .0801 - .0802; .0901 - .0903; .1001 - .1004; repeal regulations cited as 21 NCAC 32H .0304; .0603.

The proposed effective date of this action is April 1, 1988.

The public hearing will be conducted at 1:00 p.m. on January 15, 1988 at Hearing Room 201, Division of Facility Services, 701 Barbour Drive, Raleigh, North Carolina 27603.

Comment Procedures: Address comments to: Mike Eddinger, Division of Facility Services, Emergency Medical Services, 701 Barbour Drive, Raleigh, NC 27603. Record to remain open from December 15, 1987 to January 14, 1988.

## CHAPTER 32 - BOARD OF MEDICAL EXAMINERS

### SUBCHAPTER 32H - MOBILE INTENSIVE CARE

#### SECTION .0100 - GENERAL INFORMATION

##### .0101 AUTHORITY: INTENT AND GOALS

(a) In establishing and approving rules and regulations pursuant to G.S. 143-514, it is the intent of the Board of Medical Examiners and the Department of Human Resources to respond to a critical shortage of professionally trained medical and nursing personnel for the delivery of fast, efficient emergency medical care to the sick and injured at the scene and during transport to a health care facility.

(b) Improved emergency medical services are required to reduce the mortality and morbidity rate during the first critical minutes immediately following trauma ~~an accident~~ or the onset of a medical emergency ~~serious physical condition~~ such as an acute myocardial infarction. Within the goals of the Board of Medical Examiners and the Department of Human Resources, in establishing these rules and regulations, is the provision of the best and most economical delivery of emergency medical care.

Statutory Authority G.S. 143-514.

##### .0102 DEFINITIONS

(a) "Office of Emergency Medical Services" means an official agency of the State of North Carolina, Department of Human Resources, who shall serve in an administrative capacity to the Board of Medical Examiners.

(b) "Mobile intensive care program" means a program of pre-hospital emergency medical care whereby definitive medical care is delivered to a victim of sudden injury or illness by

appropriately trained and certified pre-hospital technicians operating under the direction of a sponsor ~~or resource~~ hospital. All mobile intensive care programs shall conform to the criteria established in the regulations contained in this Subchapter and must be approved by the Office of Emergency Medical Services.

(c) "Mobile intensive care unit" means any emergency vehicle staffed by field technicians and equipped in accordance with standards established by the North Carolina Medical Care Commission as found in ~~40 NCAC 3M .0102 and .0103~~ 10 NCAC 3M .0202, .0203, .0204, and .0205 to provide remote intensive care to sick and injured persons at the scene of a medical emergency and during transport to a health care facility.

(d) "Emergency medical technician-paramedic (EMT-P)" means a person specially trained in emergency medical care in a training program approved by the Office of Emergency Medical Services who has been certified or recertified by the Board of Medical Examiners as qualified to render the services enumerated in Rule .0402 of this subchapter.

(e) "Emergency medical technician-intermediate (EMT-Intermediate)" means a person specially trained in a training program approved by the Office of Emergency Medical Services and who has been certified or recertified by the Board of Medical Examiners as qualified to render the services enumerated in Rule .0403 of this Subchapter.

(f) "Mobile intensive care nurse (MICN)" means a registered nurse who has been approved or reapproved by the Board of Medical Examiners to issue instructions to field technicians in accordance with protocols approved by the sponsor ~~or resource~~ hospital and under the direction of the responsible physician.

(g) "Sponsor hospital" means a hospital and its medical staff which actively participates in a mobile intensive care program and has responsibility for providing or ensuring the provision of training and medical direction to the field technicians. The sponsor hospital shall meet criteria adopted by the Board and be approved by the Office of Emergency Medical Services.

(h) "~~Resource hospital~~" means a hospital and its medical staff which serve as a resource for one or more mobile intensive care programs functioning within a multi-county area approved by the Office of Emergency Medical Services. The resource hospital serves to provide physician support and training programs facilities to its affiliated sponsor hospitals as well as overall coordination to en-

sure program consistency and quality. The resource hospital shall meet criteria adopted by the Board and be approved by the Office of Emergency Medical Services.

(~~h~~) (h) "Physician" means an individual licensed by the Board of Medical Examiners to practice medicine in the State of North Carolina.

(~~i~~) (i) "Medical director" means the physician responsible for the medical aspects of the management of the mobile intensive care program.

(~~j~~) (j) "Oral interview panel" means a committee composed of physicians and nurses whose responsibility is to interview each applicant for certification, ~~recertification~~, approval ~~or reapproval~~, either collectively or individually and evaluate his suitability to perform successfully at the certification level sought. Factors evaluated shall include the applicant's knowledge of emergency medical care, familiarity with operational protocols and motivation for serving in this capacity. The panel must consist of a minimum of three members with a majority being physicians appointed by the medical director of the mobile intensive care program in which the oral interview panel is functioning.

(~~k~~) (k) "Audit and review panel" means a committee composed of representatives of the medical, nursing, administrative and pre-hospital care service elements of the mobile intensive care program which has the responsibility for the on-going monitoring and evaluation of the program. The chairman of the panel shall be a physician and a majority of the voting members shall be physicians.

(~~l~~) (l) "Study project" means a proposal involving exceptions to the provisions of this Subchapter for the purpose of evaluating the efficiency and effectiveness of alternate means of providing mobile intensive care services to the citizens of North Carolina.

(~~m~~) (m) "Medical control" means the management and accountability for the medical care aspects of a mobile intensive care program. It entails the physician direction and oversight of the training of the field technicians development and monitoring of both operational and treatment protocols; evaluation of the medical care rendered by the mobile intensive care personnel; participation in system evaluation; and directing, by radio or telephone, the medical care rendered by the field technicians, EMT - intermediates or EMT-paramedics in the field.

(~~n~~) (n) "Field technician" means a certified emergency medical technician-defibrillation,



emergency medical technician-intermediate, emergency medical technician-advanced intermediate, or emergency medical technician-paramedic.

~~(p)~~ (o) "Emergency medical technician-advanced intermediate (EMT-AI)" means a person specially trained in a program approved by the Office of Emergency Medical Services and who has been certified or recertified by the Board of Medical Examiners as qualified to render services enumerated in Rule .0406 of this Subchapter.

(p) "Emergency medical technician - defibrillation (EMT-D)" means a person specially trained in a program approved by the Office of Emergency Medical Services and who has been certified or recertified by the Board of Medical Examiners as qualified to render services enumerated in Rule .0407 of this Subchapter.

Statutory Authority G.S. 143-514.

## SECTION .0200 - PROGRAM STANDARDS AND APPROVAL

### .0201 MOBILE INTENSIVE CARE PROGRAM CRITERIA

Mobile intensive care programs shall cover a defined service area of generally not less than one county and must have the following:

- (1) a plan, as specified in Rule .0302 of this Subchapter, for the coordination of the sponsor ~~and/or resource~~ hospitals participating in the program. ~~Where affiliation with a resource hospital is required, a copy of the written agreement must be included.~~
- (2) a designated medical director who shall be responsible either directly or by clearly established delegation to the other licensed physicians at the sponsor ~~and/or resource~~ hospital(s) for the following:
  - (a) the initial establishment and periodic updating of treatment protocols;
  - (b) medical supervision of the selection, initial training, continuing education and performance of EMT-Intermediate, EMT-P and MICN personnel; the field technicians and MICN personnel;
  - (c) the medical review of the care provided to patients;
  - (d) keeping the care provided up-to-date with advancing biomedical science and technology; and
  - (e) participation in the overall management of the mobile intensive care program in liaison with nursing, technical, and ad-

ministrative staff of the program. The medical director has the authority to suspend temporarily, pending formal review, a field technician or MICN from further participation in the mobile intensive care program when in his determination the activities and/or medical care rendered by such personnel are or may be detrimental to the care of the patient.

- (3) an organized and defined system of communications that provides for:
  - (a) public access through a central medical communications center preferably utilizing a single, well-publicized telephone number;
  - (b) dispatch and coordination of all resources (manpower, vehicles and equipment) essential to the effective and efficient management of requests for emergency medical assistance;
  - (c) communications linkages for interacting with other public safety agencies to obtain additional resources required to support emergency medical services activities;
  - (d) two-way voice communications as specified in Rules .0303(a)(2)(I) ~~and .0304 (a)(7)~~ of this Subchapter between the field technicians and the personnel at the sponsor ~~and/or resource~~ hospital responsible for directing the medical treatment rendered by the technicians.
  - (4) adequate certified manpower to ensure that the program will be continuously available on a 24 hour-a-day basis;
  - (5) audit and review panel(s) which meet on a regular basis and whose responsibilities include at least the following:
    - (a) reviewing mobile intensive care cases to determine the appropriateness of the medical care rendered by all personnel involved in the case;
    - (b) making recommendations to the medical director for the continuing education program for mobile intensive care personnel;
    - (c) reviewing the policies, procedures and protocols for the mobile intensive care program and making recommendations for improvement.

Statutory Authority G.S. 143-514.

### .0202 PROGRAM APPROVAL

- (a) A complete proposal to establish ~~for~~ a mobile intensive care program must be submitted to the Office of Emergency Medical



Services at least 60 days prior to the planned field implementation of the program.

(b) The proposal must demonstrate that the program meets the standards found in Rule .0201 of this Section and must follow the format specified by the Office of Emergency Medical Services.

*Statutory Authority G.S. 143-514.*

## SECTION .0300 - HOSPITAL UTILIZATION

### .0301 HOSPITAL INVOLVEMENT

Hospital and hospital medical staff participation in the establishment, operation and ongoing evaluation of mobile intensive care programs is essential. The role of each participating hospital within the service area of a mobile intensive care program must be defined, and the operational procedures outlined and agreed to by all participants so as to help ensure proper coordination. Hospitals approved by the Office of Emergency Medical Services as a sponsor ~~and or resource~~ hospital may provide services utilizing mobile intensive care personnel for the delivery of emergency medical care to the sick and injured at the scene of an emergency, during transport to a hospital, while in a hospital emergency department and during training of the technicians. While functioning pursuant to these rules and regulations the field technicians shall be under the control and supervision of the physician or approved MICN of ~~either~~ the sponsor ~~or resource~~ hospital from which they are receiving instructions.

*Statutory Authority G.S. 143-514.*

### .0302 PLAN FOR PARTICIPATING HOSPITALS

(a) Each mobile intensive care program shall have a written plan which outlines the roles and responsibilities of each of the hospitals that will function as a sponsor hospital in the program. The plan shall allow for the participation of all hospitals within the service area of the mobile intensive care program that meet the sponsor hospital criteria even though one or more hospitals may not want to participate at the initiation of the program. One hospital shall be designated as being administratively responsible for the mobile intensive care program and as such have overall responsibility for coordination of the program and ensuring compliance with the requirements of this Subchapter. Changes in this designation must be

approved by the Office of Emergency Medical Services.

(b) The plan shall be approved by the chief of staff and chief executive officer of each participating hospital and shall include at a minimum:

- (1) a description of the role each hospital is to have in the mobile intensive care program;
- (2) a description of the operational procedures to be followed by the mobile intensive care personnel to obtain medical direction;
- (3) the treatment protocols to be utilized in the program and a description of the procedure to be followed to modify them;
- (4) a description of how the audit and review function will be established and carried out;
- (5) a description of the methodology for providing continuing education for the mobile intensive care personnel;
- (6) a description of the mechanism for providing physician backup to the MICN personnel in programs where they are utilized.

*Statutory Authority G.S. 143-514.*

### .0303 SPONSOR HOSPITAL

(a) To be approved by the Office of Emergency Medical Services as a sponsor hospital, a hospital must:

- (1) demonstrate that it will function as part of a mobile intensive care program in accordance with a plan, meeting the requirements of Rule .0302 of this Section;
- (2) meet the following criteria:
  - (A) have an active cardiac care unit and/or intensive care unit of at least four beds if the mobile intensive care program is functioning at the EMT-P level;
  - (B) have, at a minimum, MICN coverage available 24 hours per day in the emergency department or critical care unit for communication with the field technicians;
  - (C) ensure 24 hour availability of a registered nurse who is primarily responsible to meet mobile intensive care patients upon arrival at the emergency department;
  - (D) have a physician available ~~either in the emergency department of the sponsor hospital, the emergency department~~

of the sponsor hospital administratively responsible for the mobile intensive care program or its affiliated resource hospital to provide backup to the MICN issuing instructions to the field technicians;

- (E) appoint a registered nurse to act as a liaison between the field technicians and the hospital;
- (F) appoint a physician to serve as a medical director or liaison to the medical director of the mobile intensive care program;
- (G) have written support letters for the program from both the chief executive officer and chief of staff of the hospital;
- (H) establish or participate in an audit and review panel that meets regularly;
- (I) have access to and operate a communications system that will provide, at a minimum, two-way voice communications to mobile intensive care field technicians anywhere in the service area of the mobile intensive care program. The communications system shall provide for communication from the onset of patient treatment through the delivery of the patient at the medical treatment facility. The communications system shall be operational 24 hours per day and shall allow for initiation of communication by either the field technicians or by the sponsor hospital that is directing the patient care procedures and treatment;
- (J) provide orientation regarding the mobile intensive care program to appropriate medical and nursing personnel at the hospital;
- (K) have treatment protocols adopted by the medical staff covering the performance of field technicians which are consistent with those being used throughout the mobile intensive care program;
- (L) provide or ensure provision of a continuing education program for mobile intensive care personnel (minimum of four hours per month);
- (M) provide or ensure provision of clinical experience (with supervision) for those participating in the training program.

(b) In addition, the sponsor hospital designated as administratively responsible for the mobile intensive care program must have a physician in the emergency department 24 hours a day who is available to give orders and

medical direction to the field technicians. For mobile intensive care programs that do not have a participating hospital within their area with a physician in the emergency department 24 hours a day, this requirement may be met by the sponsor hospital designated as administratively responsible for the program defining a mechanism affecting a written agreement with the most appropriate resource hospital to provide physician backup to the MICN and medical direction to the field technicians.

*Statutory Authority G.S. 143-514.*

#### .0304 RESOURCE HOSPITAL (REPEALED)

*Statutory Authority G.S. 143-514.*

### SECTION .0400 - TRAINING AND PERFORMANCE OF MOBILE INTENSIVE CARE PERSONNEL

#### .0401 TRAINING PROGRAMS

(a) A training program intended to qualify personnel as field technicians or MICN's must be approved by the office of emergency medical services. Proposals for training programs must be submitted for approval at least ~~20~~ 45 days prior to the date on which training is scheduled to start.

(b) Field technician ~~EMT intermediate, EMT-P, and MICN~~ trainees may perform the services and functions permitted by the rules contained in this Subchapter for their certification ~~approval~~ level during:

- (1) the clinical training portion of an approved training program while caring for patients in the sponsor ~~or resource~~ hospital, provided that the related didactic work has been completed and that they are under the direct supervision of a physician or registered nurse;
- (2) a field internship provided that:
  - (A) the related didactic and clinical work of an approved training program has been completed;
  - (B) they are directly supervised and accompanied by a field technician certified at a like or higher certification level or a physician; and
  - (C) the internship is conducted within a mobile intensive care program approved at the same or higher certification level for which the personnel are being trained.

*Statutory Authority G.S. 143-514.*

#### .0402 EMERGENCY MEDICAL TECHNICIAN

**-PARAMEDIC PERFORMANCE**

EMT-P's trained in approved training programs, certified by the Board of Medical Examiners to perform medical acts, and functioning in an approved mobile intensive care program may do any of the following in accordance with the protocols established by their sponsor ~~or resource~~ hospital:

- (1) While at the scene of a medical emergency where the capability of continuous two-way voice communication, or the capability of continuous two-way voice communication supplemented by a telemetered electrocardiogram, is maintained with a physician or approved MICN located in the sponsor ~~or resource~~ hospital, and upon order of such physician or MICN may:
  - (a) establish an intravenous line in a peripheral vein and administer any intravenous solution approved by the Board of Medical Examiners for use by EMT-Ps;
  - (b) obtain blood for laboratory analysis;
  - (c) administer parenterally, orally, or topically any of the drugs approved by the Board of Medical Examiners for use by EMT-Ps;
  - (d) perform pulmonary ventilation by means of an esophageal obturator airway, esophageal gastric tube airway, or endotracheal tube;
  - (e) perform defibrillation and or cardioversion;
  - (f) use gas-powered or hand-powered nebulizers;
  - (g) decompress a tension pneumothorax by use of a catheter-flutter-valve device;
  - (h) use positive end expiratory pressure respirators;
  - (i) perform cricothyrotomy for relief of upper airway obstruction;
  - (j) perform gastric suction by intubation;
  - (k) perform urinary catheterization.
- (2) When confronted with a pulseless non-breathing patient perform cardiopulmonary resuscitation, defibrillation, pulmonary ventilation by means of an esophageal obturator airway, esophageal gastric tube airway, or endotracheal tube, and administer appropriate cardiac drugs prior to contacting the sponsor hospital.
- (3) Establish an intravenous line in a peripheral vein and administer any intravenous solution approved by the Board of Medical Examiners for use by EMT-Ps prior to contacting the sponsor hospital. This shall be limited to two unsuccessful

attempts prior to contacting the sponsor hospital.

*Statutory Authority G.S. 143-514.*

**.0403 EMERGENCY MEDICAL TECHNICIAN-INTERMEDIATE PERFORMANCE**

EMT-Intermediate's trained in approved training programs, certified by the Board of Medical Examiners to perform medical acts and functioning in an approved mobile intensive care program, may do any of the following in accordance with the protocols established by their sponsor ~~or resource~~ hospital:

- (1) While at the scene of a medical emergency where the capability of continuous two-way voice communication is maintained with a physician or approved MICN located in the sponsor ~~or resource~~ hospital, and upon order of such physician or MICN may:
  - (a) establish an intravenous line and administer the following solutions by intravenous infusion:
    - (i) dextros 5 percent in water (D5W),
    - (ii) lactated ringer's solution, and
    - (iii) normal saline;
  - (b) perform pulmonary ventilation by means of an esophageal obturator airway and/or esophageal gastric tube airway;
  - (c) obtain blood for laboratory analysis;
  - (d) administer subcutaneously 1:1000 epinephrine to treat systemic allergic reactions.
- (2) When confronted with a pulseless, non-breathing patient perform cardiopulmonary resuscitation including, when appropriate, defibrillation by means of an automatic or semi-automatic defibrillator, and pulmonary ventilation by means of an esophageal obturator airway and/or esophageal gastric tube airway prior to contacting the sponsor ~~or resource~~ hospital.

*Statutory Authority G.S. 143-514.*

**.0404 MOBILE INTENSIVE CARE NURSE PERFORMANCE**

MICN's currently approved by the Board of Medical Examiners, while functioning under the direction of a physician in the sponsor ~~or resource~~ hospital of an approved mobile intensive care program, may direct field technicians to perform actions as defined in the adopted patient care protocols for that mobile intensive care program.



*Statutory Authority G.S. 143-514.*

**.0405 TECHNICIAN PERFORMANCE IN THE PRESENCE OF A PHYSICIAN**

When there is a physician licensed to practice medicine present at the scene of a medical/traumatic emergency and that physician chooses to assume medical responsibility for the patient(s), the field technicians at the scene shall:

- (1) require and allow that physician to contact the sponsor hospital and the physician who receives the call at the sponsor hospital shall make the decision as to whether or not the physician on the scene is to be allowed to take charge of the patient(s) and give orders;
- (2) if the physician on the scene is allowed to take charge, ~~field technicians on the scene shall~~ permit that physician's orders to take precedence over all other procedures and/or protocol normally utilized within that emergency care program;
- (3) follow the orders of the physician within the limits enumerated in Rules .0402, ~~and~~ .0403, .0406, and .0407 of this Section.

*Statutory Authority G.S. 143-514.*

**.0406 EMERGENCY MEDICAL TECHNICIANS: ADVANCED INTERMEDIATE PERFORMANCE**

EMT-advanced intermediates trained in approved training programs, certified by the Board of Medical Examiners to perform medical acts and functioning in an approved mobile intensive care program, may do any of the following in accordance with the protocols established by their sponsor ~~or resource~~ hospital:

- (1) While at the scene of a medical emergency where the capability of continuous two-way voice communication is maintained with a physician or approved MICN located in the sponsor ~~or resource~~ hospital, and upon order of such physician or MICN may:
  - (a) establish an intravenous line in a peripheral vein and administer any intravenous solution approved by the Board of Medical Examiners for use by EMT-advanced intermediates;
  - (b) obtain blood for laboratory analysis;
  - (c) administer intravenously:
    - (i) 50 percent Dextrose,
    - (ii) Naloxone (Narcan),
    - (iii) Lidocaine,
    - (iv) Sodium Bicarbonate,
    - (v) Atropine,

- (vi) Epinephrine;
- (d) administer sublingually nitroglycerin;
- (c) administer subcutaneously 1:1000 epinephrine to treat systemic allergic reactions;
- (f) perform pulmonary ventilation by means of an esophageal obturator airway, esophageal gastric tube airway, or endotracheal
- (g) perform defibrillation.
- (2) When confronted with a pulseless non-breathing patient perform cardiopulmonary resuscitation, defibrillation, pulmonary ventilation by means of an esophageal obturator airway, esophageal gastric tube airway, or endotracheal tube and administer appropriate cardiac drugs prior to contacting the sponsor hospital.

*Statutory Authority G.S. 143-514.*

**.0407 EMERGENCY MEDICAL TECHNICIAN: DEFIBRILLATION PERFORMANCE**

EMT-defibrillation technicians trained in approved programs, certified by the Board of Medical Examiners to perform medical acts and functioning in an approved mobile intensive care program, when confronted with a pulseless non-breathing patient, may perform defibrillation by means of an automatic or semi-automatic defibrillator. Defibrillation may be performed prior to contacting the sponsor hospital.

*Statutory Authority G.S. 143-514.*

**SECTION .0500- CERTIFICATION AND APPROVAL REQUIREMENTS FOR MOBILE INTENSIVE CARE PERSONNEL**

**.0501 CERTIFICATION REQUIREMENTS: EMT-PARAMEDIC**

- (a) To become certified as an EMT-P, a person shall meet the following criteria:
  - (1) be currently certified as an emergency medical technician in the State of North Carolina;
  - (2) be affiliated on a continuous basis with an ambulance provider permitted by the Office of Emergency Medical Services which functions as part of an approved mobile intensive care program;
  - (3) present evidence that he is of suitable character and physically capable of performing as an EMT-P;
  - (4) successfully complete, within one year of application, an EMT-P training course approved by the Office of

Emergency Medical Services, following guidelines established by the Board of Medical Examiners. When training was completed over one year prior to application, a person must submit evidence of completion of pertinent refresher training in emergency medicine taken in the past year for approval by the Office of Emergency Medical Services.

- (5) successfully complete a performance evaluation conducted under the direction of the medical director of the mobile intensive care program assessing his ability to perform the skills and procedures specified in Rule .0402 of this Subchapter;
- (6) be recommended for certification upon examination by an oral interview panel established by the mobile intensive care program in which he is proposing to function;
- (7) pass practical and written examinations administered by the Office of Emergency Medical Services.

(b) Persons holding current certification as an EMT-P with the National Registry of Emergency Medical Technicians or in another state where the whose training certification requirements have been program is commensurate with those approved for reciprocity by the Office of Emergency Medical Services may become certified by:

- (1) presenting evidence of such certification for verification by the Office of Emergency Medical Services; and,
- (2) meeting the criteria specified in Subparagraphs (a)(1), (a)(2), (a)(3), (a)(5), and (a)(6), ~~and (a)(7)~~ of this Rule.

(c) Certification obtained through reciprocity shall be valid for a period not to exceed the length of the current certification or a period not to exceed two years whichever is shorter. No certification shall be valid for a period exceeding two years. Persons must be recertified by presenting documentation to the Office of Emergency Medical Services that he has successfully completed either: at which time the person must be recertified by successfully completing the following:

- (1) an ongoing continuing education program under the direction of the medical director, approved by the Office of Emergency Medical Services, following guidelines approved by the Board of Medical Examiners; of a minimum of 24 hours every six months of which no more than 50 percent may be clinical exposure;

- (2) an advanced life support a performance evaluation conducted under the direction of the medical director following guidelines established by the Board of Medical Examiners, of the mobile intensive care program assessing the ability to perform the skills and procedures specified in Rule .0402 of this Subchapter;
- (3) basic life support practical and EMT-P written examinations administered by the Office of Emergency Medical Services.
- (4) the criteria specified in Subparagraph (c)(1) and (c)(2) of this Rule;
- (5) a basic life support skills evaluation conducted under the direction of the medical director assessing the ability to perform the skills required of an emergency medical technician as specified by the North Carolina Medical Care Commission;
- (6) an EMT-P written examination administered under the direction of the medical director complying with the test specifications of the state EMT-P written examination.

Statutory Authority G.S. 143-514.

**.0502 CERTIFICATION REQUIREMENTS:  
EMT-INTERMEDIATE**

(a) To become certified as an EMT - Intermediate a person must meet the following criteria:

- (1) be currently certified as an emergency medical technician in the State of North Carolina;
- (2) be affiliated on a continuous basis with an ambulance provider permitted by the Office of Emergency Medical Services and which functions as part of an approved mobile intensive care program;
- (3) present evidence that he is of suitable character and physically capable of performing as an EMT-Intermediate;
- (4) successfully complete, within one year of application, an EMT-Intermediate training course approved by the Office of Emergency Medical Services following guidelines established by the Board of Medical Examiners. When training was completed over one year prior to application, a person must submit evidence of completion of pertinent refresher training in emergency medicine for approval by the Office of Emergency Medical Services;

- (5) successfully complete a performance evaluation conducted under the direction of the medical director of the mobile intensive care program assessing his ability to perform the skills and procedures specified in Rule .0403 of this Subchapter;
  - (6) be recommended for certification upon examination by an oral interview panel established by the mobile intensive care program in which he is proposing to function;
  - (7) pass practical and written examinations administered by the Office of Emergency Medical Services.
- (b) Persons holding current certification as an EMT-Intermediate EMT-I with the National Registry of Emergency Medical Technicians or in another state where the whose training /certification requirements have been program is commensurate with those approved for reciprocity by the Office of Emergency Medical Services may become certified by:
- (1) presenting evidence of such certification for verification by the Office of Emergency Medical Services; and,
  - (2) meeting the criteria specified in Subparagraphs (a)(1), (a)(2), (a)(3), (a)(5), and (a)(6) ~~and (a)(7)~~ of this Rule.
- (c) Certification obtained through reciprocity shall be valid for a period not to exceed the length of the current certification or a period not to exceed two years whichever is shorter. No certification shall be valid for a period exceeding two years. Persons must be recertified by presenting documentation to the Office of Emergency Medical Services that he has successfully completed either: at which time the person must be recertified by successfully completing the following:
- (1) an ongoing continuing education program under the direction of the medical director, approved by the Office of Emergency Medical Services, following guidelines established by the Board of the Medical Examiners; ~~of a minimum of 24 hours every six months of which no more than 50 percent may be clinical exposure;~~
  - (2) an advanced life support a performance evaluation conducted under the direction of the medical director following guidelines established by the Board of Medical Examiners assessing the ~~his~~ ability to perform the skills and procedures specified in Rule .0403 of this Subchapter;

- (3) basic life support practical and EMT-I written examinations administered by the Office of Emergency Medical Services.
- (4) the criteria specified in Subparagraph (c)(1) and (c)(2) of this Rule;
- (5) a basic life support skills evaluation conducted under the direction of the medical director assessing the ability to perform the skills required of an emergency medical technician as specified by the North Carolina Medical Care Commission;
- (6) an EMT-I written examination administered under the direction of the medical director complying with the test specifications of the state EMT-I written examination.

*Statutory Authority G.S. 143-514.*

**.0503 APPROVAL REQUIREMENTS:**

**MOBILE INTENSIVE CARE NURSE**

(a) To be approved as a mobile intensive care nurse, a person must meet the following criteria:

- (1) be currently licensed as a registered nurse in the State of North Carolina;
- (2) be affiliated on a continuous basis with a sponsor ~~or resource~~ hospital which is part of an approved mobile intensive care program;
- (3) have a minimum of two years emergency and/or critical care nursing experience;
- (4) present evidence of successful completion of the Emergency Nurse Education Program to include current information contained in Advanced Cardiac Life Support and Basic Trauma Life Support courses;
- (5) complete a minimum of five emergency calls on a field ambulance where a patient is transported.
- (6) be recommended by the medical director of the mobile intensive care program after determining that the applicant is adequately familiar with the patient care protocols of the mobile intensive care program.

(b) Approval shall be valid for a period not to exceed two years at which time the person may be reappraised by either of the following methods:

- (1) present evidence of current certification in Advanced Cardiac Life Support;



- (2) present evidence of current certification in Basic Trauma Life Support or equivalent;
- (3) be recommended by the medical director of the mobile intensive care program after an audit of at least ten calls supervised by the applicant;
- (4) complete a minimum of five emergency calls on a field ambulance where a patient is transported; or
- (5) complete a minimum of 48 hours of continuing medical education approved by the local Audit and Review Panel;
- (6) be recommended by the medical director of the mobile intensive care program after an audit of at least ten calls supervised by the applicant;
- (7) pass a written examination administered by the Office of Emergency Medical Services which evaluates current information contained in Advanced Cardiac Life Support and Basic Trauma Life Support courses;
- (8) complete a minimum of five emergency calls on a field ambulance where a patient is transported.

*Statutory Authority G.S. 143-514.*

**.0504 CERTIFICATION REQUIREMENTS:  
EMT-ADVANCED INTERMEDIATE**

(a) To become certified as an EMT-advanced intermediate a person must meet the following criteria:

- (1) be currently certified as an emergency medical technician in the State of North Carolina;
- (2) be affiliated on a continuous basis with an ambulance provider permitted by the Office of Emergency Medical Services and which functions as part of an approved mobile intensive care program;
- (3) present evidence that he is of suitable character and physically capable of performing as an EMT-advanced intermediate;
- (4) successfully complete, within one year of application, an EMT-advanced intermediate training course approved by the Office of Emergency Medical Services following guidelines established by the Board of Medical Examiners. When training was completed over one year prior to application, a person must submit evidence of completion of pertinent refresher training in emergency medicine for approval by the Office of Emergency Medical Services;

- (5) successfully complete a performance evaluation conducted under the direction of the medical director of the mobile intensive care program assessing his ability to perform the skills and procedures specified in Rule .0406 of this Subchapter;
- (6) be recommended for certification upon examination by an oral interview panel established by the mobile intensive care program in which he is proposing to function;
- (7) pass practical and written examinations administered by the Office of Emergency Medical Services.

(b) Persons holding current certification equivalent to as an EMT-advanced intermediate EMT-AI with the National Registry of Emergency Medical Technicians or in another state where the whose training /certification requirements have been program is commensurate with those approved for reciprocity by the Office of Emergency Medical Services may become certified by:

- (1) presenting evidence of such certification for verification by the Office of Emergency Medical Services; and
- (2) meeting the criteria specified in Subparagraphs (a)(1), (a)(2), (a)(3), (a)(5) and (a)(6) ~~and (a)(7)~~ of this Rule.

(c) Certification obtained through reciprocity shall be valid for a period not to exceed the length of the current certification or a period not to exceed two years whichever is shorter. No certification shall be valid for a period exceeding two years. Persons must be recertified by presenting documentation to the Office of Emergency Medical Services that he/she has successfully completed either: at which time the person must be recertified by successfully completing the following:

- (1) an ongoing continuing education program under the direction of the medical director, approved by the Office of Emergency Medical Services, following guidelines established by the Board of Medical Examiners; of a minimum of 24 hours every six months of which no more than 50 percent may be clinical exposure;
- (2) an advanced life support a performance evaluation conducted under the direction of the medical director following guidelines established by the Board of Medical Examiners assessing the his ability to perform the skills and procedures specified in Rule .0406 of this Subchapter;

- (3) basic life support practical and EMT-AI written examinations administered by the Office of Emergency Medical Services; or
- (4) the criteria specified in Subparagraph (c)(1) and (c)(2) of this Rule;
- (5) a basic life support skills evaluation conducted under the direction of the medical director assessing the ability to perform the skills required of an emergency medical technician as specified by the North Carolina Medical Care Commission;
- (6) an EMT-AI written examination administered under the direction of the medical director complying with the test specifications of the state EMT-AI written examination.

*Statutory Authority G.S. 143-514.*

**.0505 CERTIFICATION REQUIREMENTS:  
EMT-DEFIBRILLATION**

(a) To become certified as an EMT-defibrillation technician a person must meet the following criteria:

- (1) be currently certified as an emergency medical technician in the State of North Carolina;
- (2) be affiliated on a continuous basis with an ambulance provider permitted by the Office of Emergency Medical Services, or an approved first responder organization which functions as part of an approved mobile intensive care program;
- (3) present evidence that he is of suitable character and physically capable of performing as an EMT-defibrillation technician;
- (4) successfully complete, within one year of application, an EMT-defibrillation training course approved by the Office of Emergency Medical Services following guidelines established by the Board of Medical Examiners. When training was completed over one year prior to application, a person must submit evidence of pertinent refresher training in emergency medicine for approval by the Office of Emergency Medical Services;
- (5) successfully complete a performance evaluation conducted under the direction of the medical director of the mobile intensive care program assessing his ability to perform the skills and procedures specified in Rule .0407 of this Subchapter;

- (6) be recommended for certification upon examination by an oral interview panel established by the mobile intensive care program in which he is proposing to function;

- (7) pass basic life support practical and EMT-D written examinations administered by the Office of Emergency Medical Services.

(b) Persons holding current certification equivalent to EMT-D with the National Registry of Emergency Medical Technicians or in another state where the training/certification requirements have been approved for reciprocity by the Office of Emergency Medical Services may become certified by:

- (1) presenting evidence of such certification for verification by the Office of Emergency Medical Services;
- (2) meeting the criteria specified in Subparagraphs (a)(1), (a)(2), (a)(3), (a)(5), and (a)(6) of this Rule.

(c) Certification obtained through reciprocity shall be valid for a period not to exceed the length of the current certification or a period not to exceed two years, whichever is shorter. No certification shall be valid for a period exceeding two years. Persons must be recertified by presenting documentation to the Office of Emergency Medical Services that he has successfully completed either:

- (1) an ongoing continuing education program under the direction of the medical director, approved by the Office of Emergency Medical Services, following guidelines established by the Board of Medical Examiners;
- (2) an advanced life support performance evaluation conducted under the direction of the medical director following guidelines established by the Board of Medical Examiners assessing the ability to perform the skills specified in Rule .0407 of this Subchapter;
- (3) basic life support practical and EMT-D written examinations administered by the Office of Emergency Medical Services; or
- (4) the criteria specified in Subparagraph (c)(1) and (c)(2) of this Rule;
- (5) a basic life support skills evaluation conducted under the direction of the medical director assessing the ability to perform the skills required of an emergency medical technician as specified by the North Carolina Medical Care Commission;

- (6) an EMT-D written examination administered under the direction of the medical director complying with the test specifications of the state EMT-D written examination.

*Statutory Authority G.S. 143-514.*

#### SECTION .0600 - ENFORCEMENT

##### **.0601 APPROVAL/CERTIFICATION DENIAL: SUSPENSION OR REVOCATION**

(a) The Board of Medical Examiners may deny, suspend or revoke the approval of a mobile intensive care program or sponsor hospital ~~or resource hospital~~ for any of the following reasons:

- (1) failure to comply with the requirements as found in Sections .0200 and .0300 of this Subchapter;
- (2) obtaining approval through fraud or misrepresentation.

(b) The Board of Medical Examiners may deny, suspend or revoke the certification of a field technician or the approval of an MICN for any of the following reasons:

- (1) failure to comply with the applicable performance and certification requirements as found in Rules .0402, .0403, .0404, .0406, .0407, .0501, .0502, .0503, .0504, and .0505 of this Subchapter;
- (2) obtaining certification or approval through fraud or misrepresentation;
- (3) failure to perform a prescribed procedure, failure to perform a prescribed procedure competently or performance of a procedure which is not within the scope and responsibility of the certificate holder;
- (4) performance of a procedure which is detrimental to the health and safety of a patient.

*Statutory Authority G.S. 143-514.*

##### **.0602 PROCEDURES FOR DENIAL: SUSPENSION OR REVOCATION**

(a) The Board of Medical Examiners may deny, suspend or revoke the certification of a field technician or the approval of an MICN, sponsor hospital, ~~resource hospital~~ or mobile intensive care program as specified by the rules regarding contested cases found in G.S. 150A-23.

(b) Notwithstanding Paragraph (a) of this Rule, the Board of Medical Examiners may summarily suspend the certification of a field technician, the approval of an MICN, sponsor

hospital, ~~resource hospital~~ or mobile intensive care program as specified in G.S. 150A-3(c).

*Statutory Authority G.S. 143-514.*

#### **.0603 EFFECTIVE DATE (REPEALED)**

*Statutory Authority G.S. 143-514.*

#### SECTION .0700 - EXCEPTIONS

##### **.0701 CONDITIONS**

Upon application of interested citizens in North Carolina, the Board of Medical Examiners is authorized to and reserves the right to approve the furnishing and providing of mobile intensive care programs in North Carolina referred to in these regulations by persons who have been approved to provide these services by an agency of a state adjoining North Carolina. This approval may be granted where the Board of Medical Examiners finds and concludes that these requirements for mobile intensive care programs cannot be reasonably obtained by reason of lack of geographical access.

*Statutory Authority G.S. 143-514.*

##### **.0702 REQUESTS**

All requests for exceptions must be submitted in writing to the Office of Emergency Medical Services for presentation to the Board of Medical Examiners.

*Statutory Authority G.S. 143-514.*

#### SECTION .0800 - FORMS

##### **.0801 REQUIRED FORMS**

- (a) Certification Application Form,
- (b) EMT-Intermediate Verification Form,
- (c) EMT-Advanced Intermediate Verification Form,
- (d) EMT-Paramedic Verification Form,
- (e) EMT-Defibrillation Verification Form,
- (f) MICN Verification Forms.

*Statutory Authority G.S. 143-514.*

##### **.0802 SOURCE OF FORMS**

Forms may be secured from the Office of Emergency Medical Services, Department of Human Resources, ~~Post Office Box 12200, Raleigh, North Carolina 27605~~, 701 Barbour Drive, Raleigh, N.C. 27603, Telephone (919) 733-2285.

*Statutory Authority G.S. 143-514.*



SECTION .0900 - STUDY PROJECTS

.0901 CONDITIONS

(a) Persons proposing to undertake a study project shall have a project director who is a physician licensed to practice medicine in the State of North Carolina and shall submit a written proposal to the Office of Emergency Medical Services for presentation to the Board of Medical Examiners. The proposal must include the following:

- (1) a description of the purpose, an explanation of the proposed project, the methodology to be used in implementing the project, and the geographical area to be covered by the proposed study;
- (2) a list of the mobile intensive care programs, ambulance providers, and hospitals participating in the project;
- (3) a signed statement of endorsement from the medical director of each participating mobile intensive care program, the chief executive officer of each participating hospital, and the director of each participating ambulance provider;
- (4) a description of the skills to be utilized by the field technicians if different from those specified in this Subchapter, the provisions for training and supervising the personnel who are to utilize these skills and the names of such personnel;
- (5) the name and signature of the project director attesting to his approval of the proposal.

(b) The hospitals and ambulance providers participating in the project must be a part of an approved mobile intensive care program. ~~functioning at the EMT-Intermediate, EMT-Advanced, Intermediate or EMT-P levels.~~

(c) The time period for the project shall not exceed three years.

(d) Only one project on any given subject shall be conducted within the state at any given time.

(e) When considering any study project, the Board of Medical Examiners may, at its discretion, require additional conditions to be met.

*Statutory Authority G.S. 143-514.*

.0902 STUDY PROJECT APPROVAL

(a) The Board of Medical Examiners may grant approval to any project which is found to comply with the conditions specified in this Section.

(b) Project approval shall be granted for a period of one year from the date of approval by the Board of Medical Examiners. Approval for continuation beyond this period by the Board of Medical Examiners shall be based on the achievement of satisfactory progress as evidenced in written progress reports to be submitted to the Office of Emergency Medical Services at least 90 days prior to the end of the approved year.

(c) Approval of a project by the Board of Medical Examiners shall constitute approval of the personnel listed in the proposal to exercise the specified skills as participants in the project. The project director shall submit the names of additional personnel to the Office of Emergency Medical Services for ~~consideration~~ approval by the Board of Medical Examiners prior to using additional personnel in the project.

(d) The Board of Medical Examiners may rescind approval of the study project at any time.

*Statutory Authority G.S. 143-514.*

.0903 STUDY RECOMMENDATIONS

At least six months prior to the planned completion of the study project, the project director shall submit to the Office of Emergency Medical Services a report of the preliminary findings of the project and any recommendations for changes in ~~the requirements for mobile intensive care programs.~~ this Subchapter.

*Statutory Authority G.S. 143-514.*

SECTION .1000 - MEDICAL CONTROL

.1001 MEDICAL CONTROL PROCEDURES

Each mobile intensive care program must have procedures established to ensure medical control over the medical care rendered in the mobile intensive care program. This shall include, at a minimum:

- (1) a designated medical director to carry out the tasks as specified in Rule .0201(2)(a)-(e) of this Subchapter;
- (2) treatment protocols;
- (3) operational protocols for obtaining medical direction from the sponsor hospital(s); ~~and, if appropriate, the resource hospital;~~ and
- (4) audit and review of the medical care rendered in the program.

*Statutory Authority G.S. 143-514.*

**.1002 FOR TRANSPORTS OUTSIDE THE PROGRAM SERVICE AREA**

Field technicians transporting a patient outside their mobile intensive care program service area, but within the multi-county area of the designated resource hospital covering their service area, may accept orders to perform the skills allowed in Section .0400 of this Subchapter from their resource hospital or any sponsor hospital other than their own, affiliated with the same resource hospital, provided that: Field technicians transporting patients to a facility other than their own sponsor hospital may receive orders from the facility to perform the skills allowed in Section .0400 of this Subchapter provided that:

- (1) the hospital administratively responsible for the transporting provider's mobile intensive care program is affiliated with the resource hospital via a written agreement; the facility is a sponsor hospital;
- (2) the sponsor hospital receives the patient and is part of an approved mobile intensive care program at the same or higher certification level; the care level of the Advanced Life Support orders issued is consistent with the hospital's approved level of sponsorship;
- (3) the resource hospital is a sponsor hospital for an approved mobile intensive care program at the same or higher certification level or provides 24 hour physician back-up for a sponsor hospital in an approved mobile intensive care program at the same or higher certification level; the patient care protocols used by the receiving facility are consistent with those of the provider;
- (4) the treatment protocols used by the receiving hospital are the same; the respective audit and review committees establish a mechanism for the routine exchange of information;
- (5) the field technicians establish and maintain two-way voice communications with the hospital giving the order for medical care; and receiving facility; and
- (6) the mobile intensive care program of the transporting personnel includes review of the medical care provided in such situations in its audit and review function; the Office of Emergency Medical Services receives and approves documentation from the administrator and medical director of each facility specifying how paragraphs (1) through (5) of this Subsection are met.

*Statutory Authority G.S. 143-514.*

**.1003 FOR TRANSPORTS BETWEEN FACILITIES**

Field technicians transporting a patient outside of their mobile intensive care program service area and the multi-county area of the designated resource hospital covering their service area may accept orders to perform the skills allowed in Section .0400 of this Subchapter from an approved resource hospital or a sponsor hospital provided: Field technicians transporting patients between facilities may accept orders from sponsor hospitals other than their own sponsor hospital provided that:

- (1) the resource hospital is a sponsor hospital for an approved mobile intensive care program at the same or higher certification level or provides 24 hour physician back-up for a sponsor hospital in an approved mobile intensive care program at the same or higher certification level; the care level of the advanced life support orders issued is consistent with the hospital's approved level of sponsorship;
- (2) the sponsor hospital is a part of an approved mobile intensive care program at the same or higher certification level;
- (3) (2) the patient is transported to the sponsor or resource hospital issuing giving the orders; and
- (4) (3) the field technicians establish and maintain two-way voice communications with the hospital giving issuing the orders. for medical care; and
- (5) the mobile intensive care program of the transporting personnel includes review of the medical care provided in such situations in its audit and review function.

*Statutory Authority G.S. 143-514.*

**.1004 AIR AMBULANCE PROGRAM CRITERIA**

(a) Air ambulance programs operating under the authority of 10 NCAC 3D .0101(b)(4)(B) must submit a proposal for program approval to the Office of Emergency Medical Services at least 60 days prior to field implementation. The proposal must document that the program has:

- (1) a defined service area;
- (2) a physician medical director responsible for:
  - (A) the establishment and updating of treatment and transfer protocols;

(B) medical supervision of the selection, training, and performance of medical crew members as defined in 10 NCAC 3D .0115;

(C) the medical review of patient care;

(D) medical management of the program. Pending formal review, the medical director may temporarily suspend from the program any medical crew member whose actions or medical care are determined to be detrimental to patient care;

(3) adequate manpower trained, in accordance with 10 NCAC 3D .0115, to ensure that the program will be continuously available on a 24 hour-a-day basis;

(4) an audit and review panel which meets on a regular basis to:

(A) review cases and determine the appropriateness of medical care rendered;

(B) make recommendations to the medical director about the continuing education needed by medical crew members;

(C) review/revise policies, procedures, and protocols for the program;

(5) patient transfer protocols that have been reviewed and approved by the Office of Emergency Medical Services.

(b) Air ambulance programs based outside of North Carolina may be granted approval by the Office of Emergency Medical Services to operate in North Carolina under 10 NCAC 3D .0101(b)(4)(B) by submitting a proposal for program approval. The proposal must document that the program meets all criteria specified in Rule .1004(a) of this Subchapter.

(c) Air ambulance programs implemented prior to June 1, 1986 and which operate under the authority of 10 NCAC 3D .0101(b)(4)(B) must document compliance with Rule .1004 of this Subchapter by June 1, 1987.

Statutory Authority G.S. 143-514.

\* \* \* \* \*

Notice is hereby given in accordance with G.S. 150B-12 that the North Carolina Board of Nursing intends to adopt and amend regulations cited as 21 NCAC 36 .0110; .0112; .0113; .0208; .0211; .0217; .0218; and .0310.

The proposed effective date of this action is May 1, 1988.

The public hearing will be conducted at 2:00 p.m. on January 20, 1988 at Raleigh Marriott Hotel, Raleigh, North Carolina.

**Comment Procedures:** Any person wishing to present oral testimony relevant to these proposed rules may register at the door before hearing begins and present the hearing officer with a written copy of testimony. Written statements may be directed, five days prior to the hearing date, to the North Carolina Board of Nursing, P. O. Box 2129, Raleigh, NC 27602.

## CHAPTER 36 - BOARD OF NURSING

### SECTION .0100 - GENERAL PROVISIONS

#### .0110 OPEN MEETINGS

(c) Any agency or individual, directly affected by any item to be considered by the board, may request opportunity to speak in relation to the specific item. Such request must be in writing and received in the board office at least 24 live business days prior to the scheduled meeting.

(e) Persons wishing to ~~bring matters to the board for its attention or consideration~~ request that an item be placed on the board agenda shall submit the request in writing no less than 30 days prior to the scheduled regular meeting. Such request shall specify the nature of the matter to be discussed and suggest the amount of time needed for the discussion.

Statutory Authority G.S. 90-171.23(a); 143-33C.

#### .0112 DETERMINATION OF VACANCY

Should a registered nurse member of the board cease to be actively employed (as defined in Rule .0113) in the specified area defined in G.S. 90-171.21(d), which is the basis for her/his eligibility, she/he will have a reasonable period of time to resume employment in the designated area. A reasonable period of time shall be considered to be 60 days. If active employment in the specified area is not resumed within 60 days, the seat will be declared vacant and the vacancy filled according to G.S. 90-171.21(c). Provided, however, that if cessation of active employment within the specified area occurs within 90 days of the end of the member's term, such member may continue to serve until the end of the term.

Statutory Authority G.S. 90-171.21(c).



**.0113 DETERMINATION OF QUALIFICATIONS**

For purposes of G.S. 90-171.21 and Rule .0112 of this Section, the phrases "shall hold positions," "shall be employed," and "shall be a," shall mean "active employment." "Active employment" shall be determined by the board by examination of the following factors:

- (1) whether the licensee holds an employment with an employer or is self-employed;
- (2) the number of days during the preceding three years devoted to engagement in the specified activity;
- (3) the duration of any periods of interruption of engaging in the specified activity during the preceding three years and the reasons for any such interruptions;
- (4) the nature and purpose of any other activities engaged in by the licensee during a period of interruptions;
- (5) the intent of the licensee to resume engagement in the specified activity, the efforts of the licensee to resume engagement in the specific activity, and the probability that the licensee will be able to resume engagement in the specified activity;
- (6) job descriptions, contracts, and any other relevant evidence concerning the time, effort, and education devoted to the specified activity; and
- (7) whether engagement in the specified activity is or has been for compensation, and whether income from the specified activity is the principal source of the licensee's personal earned income.

*Statutory Authority G.S. 90-171.21(d).*

**SECTION .0200 - LICENSURE**

**.0208 CHANGE OF NAME/DUPLICATE LICENSE**

- (a)
- ~~(2) a copy of legal document authorizing the change in name, either marriage certificate or court order, if applicable; and~~
- ~~(+)~~ (3)

*Statutory Authority G.S. 90-171.23(b)(3).*

**.0211 EXAMINATION**

- (d)
- (6) The passing standard score shall be 350 in each of the five tests comprising the examination for registered nurse licensure, up to and including the February

1982 examination. Beginning in July 1982 and up to and including the July 1988 examination, the examination will be comprised of four parts and the passing standard score shall be 1600 for the total examination. Beginning in February 1989, the examination will be comprised of four parts and a passing score shall be reported as "PASS."

- (7) The passing standard score shall be 350 for the total examination for practical nurse licensure, up to and including the April 1988 examination. Beginning in October 1988, the passing score shall be reported as "PASS."

*Statutory Authority G.S. 90-171.30.*

**.0217 REVOCATION;SUSPENSION OR DENIAL OF LICENSE**

(c) Before the North Carolina Board of Nursing makes a binding decision concerning any of the actions which are within the coverage of the Nursing Practice Act, the applicant or licensee who is to be affected by such action will be given at least 20 days notice and afforded an opportunity to be heard. The hearing notice shall include a statement of the date, hour, place and nature of the hearing; a reference to the particular sections of the statutes and rules involved; and a short and plain statement of the factual allegation. Notice will be given by certified mail, and it shall be deemed to have been given on the date appearing on the return receipt. If notice cannot be given by certified mail, it will be given personally. If giving of notice cannot be accomplished either personally or by certified mail, notice shall then be given as provided in G.S. 1A-1, Rule 4(j) 4(j1). A party who has been served with a notice of hearing may file a written response with the North Carolina Board of Nursing. If a written response is filed, a copy of the response must be mailed to all other parties not less than 10 days before the date set for the hearing. Any person may petition to become a party by filing a motion to intervene as provided in G.S. 1A-1, Rule 24. In addition, any person interested in any such hearing may intervene and participate in the proceeding to the extent deemed appropriate by the North Carolina Board of Nursing. Also such hearings shall be open to the public.

(d) Venue. Hearings conducted by a majority of the members of the ~~board of the~~ North Carolina Board of Nursing shall be held in ~~the office of the board in Raleigh,~~ Wake County, North Carolina. If a hearing on a

contested case is conducted by a hearing officer, ~~or less than a majority of the members of the board of nursing~~, the hearing shall be conducted in the county in this state in which any person whose property or rights are the subject matter of the hearing maintains his residence. When a different county would promote the ends of justice or better serve the convenience of witnesses, the hearing may be held in another county in the discretion of the board of nursing. In any case, however, the person whose property or rights are involved and the board of nursing may agree that the hearing is to be held in some other county.

(i) Rules of Evidence. In all contested cases, irrelevant, immaterial and unduly repetitious evidence shall be excluded. Except as otherwise provided, the rules of evidence as applied in the Trial Division of the General Court of Justice will be followed; but, when evidence is not reasonably available under such rules to show relevant facts, they may be shown by the most reliable and substantial evidence available. It shall not be necessary for a party or his attorney to object at the hearing to evidence in order to preserve the right to object to its consideration by the board in reaching its decision or by the court on judicial review. The evidence in a contested case, including records and documents, shall be offered and made a part of the record. Other factual information or evidence shall not be considered in determination of the case, except as permitted under G.S. 150B-30. Documentary evidence may be received in the form of a copy or excerpt or may be incorporated by reference, if the materials so incorporated are available for examination by the parties. Upon timely request, a party shall be given an opportunity to compare the copy with the original if available. The parties in a contested case, by a stipulation in writing filed with the board, may agree upon any fact involved in the controversy, which stipulation shall be used as evidence at the hearing and be binding on the parties thereto. Parties should agree upon facts when practicable. Except as otherwise provided by law, disposition may be made of a contested case by stipulation, agreed settlement, consent order, waiver, default, or other method agreed upon by the parties.

(l) Hearing Presiding Officer. ~~Any~~ A member of the board ~~or one or more of the hearing officers shall be~~ designated and authorized by the board ~~to handle contested cases, shall to be the hearing presiding officer in contested cases, except as provided under G.S. 150B-40(e).~~ The hearings will be conducted in an impartial

manner. On the filing in good faith by a party of a timely and sufficient affidavit of personal bias or disqualification of ~~a hearing officer~~ any member of the board, the board shall determine the matter as a part of the record in the case, and its determination shall be subject to judicial review at the conclusion of the proceeding. ~~When a hearing officer~~ If a presiding officer is disqualified or it is impractical for him to continue the hearing, another ~~hearing presiding~~ officer shall be assigned to continue with the case unless it is shown that substantial prejudice to any party will result therefrom, in which event a new hearing will be held or the case dismissed without prejudice.

(m) Powers. ~~The chairman or vice chairman of the board, the chairman or vice chairman of the nursing practice committee, the attorney of the board or the designated hearing officer~~ The presiding officer may administer oaths and affirmations; sign and issue subpoenas in the name of the board, requiring attendance and giving of testimony by witnesses and the production of books, papers and other documentary evidence; provide for the taking of testimony by deposition; regulate the course of the hearings, set the time and place for continued hearings, and fix the time for filing of briefs and other documents; direct the parties to appear and confer to consider simplification of the issues by consent of the parties; and apply to ~~the General Court of Justice, Superior Court Division, during or subsequent to a hearing~~ any judge of the superior court resident in the district or presiding at a term of court in the county where a hearing is pending for an order to show cause why any person should not be held in contempt of the board and its processes.

(o) No Ex Parte Communication. Unless required for disposition of an ex parte matter authorized by law, ~~the hearing officer~~ a member of the board assigned to make a decision or to make findings of fact and conclusions of law in a contested case shall not communicate, directly or indirectly, in connection with any issue of fact, with any person or party or his representative, nor, in connection with any issue of law, with any party or his representative, except on notice and opportunity for all parties to participate. This prohibition begins at the time of the notice of hearing. ~~The hearing officer~~ A board member may communicate with other board members and have the aid and advice of the board staff other than the staff which has been or is engaged in investigating or prosecuting functions in connection with



the case under consideration or a factually related case.

(p) Final Board Decision. A final decision or order of the board in a contested case shall be made, after review of the official record as defined in ~~G.S. 150B-37(a)~~ G.S. 150B-42(b), in writing and shall include findings of fact and conclusions of law. Findings of fact shall be based exclusively matters officially noticed. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting them. A decision or order shall not be made except upon consideration of the record as a whole or such portion thereof as may be cited by any party to the proceeding and shall be supported by substantial evidence admissible under ~~G.S. 150B-29(a) or G.S. 150B-30 or G.S. 150B-31~~ G.S. 150B-41. A copy of the decision or order shall be served upon each party personally or by certified mail addressed to the party at the latest address given by the party to the board and a copy furnished to his attorney of record.

(q) Official Record. The board will prepare an official record of the hearing which shall include -- notices, pleadings, motions, and intermediate rulings; questions and offers of proof, objections and rulings thereon; evidence presented; matters officially noticed, except matters so obvious that a statement of them would serve no useful purpose; proposed findings and exceptions; and any decision, opinion, order or report by the ~~hearing~~ officer presiding at the hearing and by the board. Proceedings at which oral evidence is presented shall be recorded by a person or mechanical means, but need not be transcribed unless requested by a party. Each party shall bear the cost of the transcript or part thereof or copy of said transcript or part thereof which said party requests.

Statutory Authority G.S. 90-171.37.

#### **.0218 LICENSURE WITHOUT EXAMINATION (BY ENDORSEMENT)**

(a) An applicant who holds an active, current license or has held an active license within the last five years in another jurisdiction as defined by the National Council of State Boards of Nursing, may apply for licensure without examination (by endorsement) provided the other jurisdiction's requirements for licensure were equivalent to or exceeded those of North Carolina at the time the applicant was initially licensed. The board will provide an application form which the applicant must complete in its entirety.

- (1)
  - (B) attainment of a standard score equal to or exceeding 350 on each test in the licensing examination developed by National Council of State Boards of Nursing, Inc. administered prior to July 1982 or a standard score of 1600 on the licensing examination developed by National Council of State Boards of Nursing, Inc. ~~administered beginning in July 1982 or later and up to and including the July 1988 examination; or beginning in February 1989, a score of "PASS."~~ An exception to this ruling is made for the applicant who was registered in the original state prior to September 1956. Such applicant is required to have attained scores on each test in the series required by the state issuing the original certificate of registration;
  - (C) safe health status;
  - (D) unencumbered active license within the last five years in original jurisdiction of licensure or another jurisdiction; if the license in the other jurisdiction has been inactive or lapsed for five or more years, the applicant will be subject to requirements for refresher course as indicated in G.S. 90-171.35 and 90-171.36.
- (2)
  - (B) achievement of a passing score on the licensing examination developed by National Council of State Boards of Nursing, Inc. If originally licensed on or after July 1, 1949 and up to and including the April 1988 examination, an applicant for a North Carolina license as a practical nurse on the basis of examination in another state must have attained a standard score equal to or exceeding 350 on the ~~State Board Test Pool Examination~~ licensure examination. Beginning in October 1988, an applicant must have received a score of "PASS" on the licensure examination. An exception to the requirement for the 350 passing score is made for the applicant who was licensed in the original state by examination prior to September 1957;
  - (C) safe health status;
  - (D) unencumbered active license within the last five years in original jurisdiction of license or another jurisdiction; if the license in the other jurisdiction has been inactive or lapsed for five or more years,



the applicant will be subject to requirements for refresher course as indicated in G.S. 90-171.35 and 90-171.36.

~~(c) Individuals who have been licensed in Canada on the basis of the Canadian Nurses' Association Test Service Examination written in the English language are eligible to apply for registration by endorsement.~~

- ~~(d) (c)~~  
~~(e) (d)~~  
~~(f) (c)~~

*Statutory Authority G.S. 90-171.32.*

**SECTION .0300 - APPROVAL OF NURSING PROGRAMS**

**.0310 FACILITIES**

(b)

- (2) Clinical resources for programs leading to registered nurse licensure must also include ~~inpatient~~ psychiatric/mental health services with sufficient patient census in community sites and/or inpatient facilities at which psychiatric/mental health care is a primary focus. Patient census must be representative of the range of DSM III diagnoses.

*Statutory Authority G.S. 90-171.23(b)(8).*

*Upon request from the adopting agency, the text of rules will be published in this section.*

*When the text of any adopted rule is identical to the text of that as proposed, adoption of the rule will be noted in the "List of Rules Affected" and the text of the adopted rule will not be republished.*

*Adopted rules filed by the Departments of Correction, Revenue and Transportation are published in this section. These departments are not subject to the provisions of G.S. 150B, Article 2 requiring publication of proposed rules.*

## TITLE 17 - DEPARTMENT OF REVENUE

### CHAPTER 5 - CORPORATE INCOME AND FRANCHISE TAX DIVISION

#### SUBCHAPTER 5C - CORPORATE INCOME TAX

##### SECTION .2500 - FOREIGN SALES CORPORATION (FSC)

##### .2502 DETERMINATION OF FSC NET INCOME

The net income of a FSC shall be determined in accordance with the revenue laws of this state and the Internal Revenue Code. Exempt foreign trade income, defined in Section 923 of the Code, of a foreign sales corporation shall not be included in the net income of the foreign sales corporation. Any expenses and commissions paid by a shareholder to a foreign sales corporation that are deductible under the Code shall be deductible from the shareholder's income.

*History Note: Statutory Authority G.S. 105-130.3; 105-130.4; 105-130.6; 105-130.7; 105-130.15; 105-130.16; 105-262; Eff. August 1, 1986; Amended Eff. January 1, 1988.*

## TITLE 19A - DEPARTMENT OF TRANSPORTATION

### CHAPTER 3 - DIVISION OF MOTOR VEHICLES

#### SUBCHAPTER 3C - VEHICLE SERVICES SECTION

## SECTION .0200 - REGISTRATION

### .0202 TITLING AND REGISTRATION OF BRANDED VEHICLES

Upon application for title and registration of a motor vehicle as defined in G.S. 20-4.01(33), the following regulations apply:

- (1) Flood vehicles will be branded "Water Flood Damage Vehicle" on the title and "WATR-FLD" on the registration card.
- (2) Non-U.S.A. vehicles may be registered with the brand "Non-U.S.A." printed on the card, but will not be titled unless and until documentary proof is received from the applicant showing that the vehicle has been modified to meet United States safety and emission control standards. The title will then reflect the brand "Non-U.S.A. vehicle."
- (3) Reconstructed vehicles will be branded "RECONST" on the registration card and "Reconstructed vehicle" on the title. The application for title must be accompanied by the inspector's report showing the vehicle was inspected prior to being rebuilt and was reinspected when completed, and the rebuilder's affidavit detailing the repairs made including proof of ownership of the parts used. Salvage vehicles not inspected prior to being rebuilt will be branded "Reconstructed vehicle."
- (4) Salvage vehicles will be branded "SALVAGE" on the registration card and "Salvage vehicle" on the title. Insurance companies paying a total loss claim on a vehicle due to theft may obtain an unbranded title, provided the vehicle has not been damaged to the extent it would be considered a total loss under the provisions of comprehension and collision insurance. If it has been so damaged, the insurance company must obtain a salvage title. If the vehicle title is reassigned by an insurance company when the loss is less than 75 percent of the fair market value of the vehicle, a copy of the adjuster's report must accompany the application and reassignment.
- (5) Salvage rebuilt vehicles will be branded "SAL-RBLT" on the registration card and "Salvage Rebuilt vehicles" on the title. The application for title must be accompanied by the inspector's report showing the vehicle was inspected prior to being rebuilt and reinspected when completed, and the rebuilder's affidavit detailing the repairs made including proof of ownership of the parts. Failure to have

the vehicle inspected prior to repair will result in the vehicle being branded a reconstructed vehicle.

*History Note: Statutory Authority G.S. 20-1; 20-39; 20-71.3; 20-109.1; Eff. July 1, 1978; Amended Eff. January 1, 1988.*

### **SUBCHAPTER 3D - LICENSE AND THEFT SECTION**

#### **SECTION .0900 - APPROVAL OF SUN SCREENING DEVICES**

##### **.0901 DEFINITIONS**

(a) "Sun screening devices" means products or materials designed to be used in conjunction with approved vehicle safety glazing materials for the purpose of reducing the effects of the sun.

(b) "Luminous reflectance" and "light transmittance" as referred to in these regulations are in the visible light range.

(c) "Reflectance" means the ratio of the amount of total light, expressed in percentages, which is reflected outward by the device to the amount of total light falling on the device.

(d) "Transmittance" means the ratio of the amount of total light, expressed in percentages, which is allowed to pass through the device including the glazing to the amount of total light falling on the device and the glazing.

(e) "Manufacturer" means any person engaged in the manufacturing or assembling of sun screening devices designed to be used in conjunction with vehicle glazing materials.

*History Note: Statutory Authority G.S. 20-39; 20-127; Eff. January 1, 1988.*

##### **.0902 TESTING AND CERTIFICATION**

(a) Each manufacturer shall demonstrate compliance with the applicable requirements of this Regulation. Test specimens of the devices shall be tested in conjunction with the glazing material of intended use. The necessary tests shall be conducted by or supervised by an approved, certified laboratory.

(b) Testing of the devices shall be in accordance with the applicable provisions of the following standards:

- (1) Transmittance - American National Standards Institute (ANSI) Z26.1-1983 (and amendments thereto).
- (2) Reflectance - ANSI ASTM E308-73 and ANSI ASTM E179-73 (and amendments thereto) for film devices and ANSI ASTM E308-73 and

ANSI/ASTM C523-68 (and amendments thereto) for perforated sun screening devices. In the latter devices, the luminous reflectance shall be measured under CIE light source C with the lamp source beam being at least 1/2 inch in diameter or larger.

(c) Each manufacturer shall certify to the Commissioner that the device is in compliance with the transmittance and reflectivity requirements of these Regulations.

*History Note: Statutory Authority G.S. 20-39; 20-127. Eff. January 1, 1988.*

##### **.0903 APPLICATION FEE**

Each manufacturer applying for approval of a sun screening device shall be registered with the Equipment Approval Unit of the Division of Motor Vehicles. Testing procedures and results shall be accompanied by the certification referred to in Rule .0902(c) and a fee of twenty-five dollars (\$25.00) in order to review the application materials.

*History Note: Statutory Authority G.S. 20-39; 20-127; Eff. January 1, 1988.*

##### **.0904 APPROVAL AND LABELING OF DEVICES**

(a) No devices manufactured with a luminous reflectance of more than 20 percent or a light transmittance of less than 70 percent will be approved for use on vehicles registered in this State.

(b) After approval of the device by the commissioner, each manufacturer shall provide an approved label with a means for permanent and legible installation between the device and each glazing surface to which it is applied. Each label shall contain the following information:

- (1) The name and address of the manufacturer;
- (2) The registration number assigned to the device by the division; and
- (3) The words, "complies with G.S. 20-127."

(c) Each manufacturer shall include instructions with the device for proper installation, including the affixing of the label specified in Paragraph (b). The label shall be placed as required by G.S. 20-127(d).

*History Note: Statutory Authority G.S. 20-39; 20-127; Eff. January 1, 1988.*



NORTH CAROLINA ADMINISTRATIVE CODE

EFFECTIVE: December 1, 1987

AGENCY			ACTION TAKEN
<u>DEPARTMENT OF ADMINISTRATION</u>			
1	NCAC 4A .0601-.0603		Repealed
<u>DEPARTMENT OF AGRICULTURE</u>			
2	NCAC 9G .0101		Amended
	20B .0401		Amended
	34 .0313		Amended
	38 .0604		Amended
	.0701		Amended
	43H .0001		Amended
	.0003-.0004		Amended
	52B .0204		Amended
	.0206		Amended
	.0302		Amended
	52E .0209		Amended
<u>DEPARTMENT OF COMMERCE</u>			
4	NCAC 1H .0101-.0103		Adopted
	.0201-.0204		Adopted
	.0301-.0303		Adopted
	11 .0101-.0102		Temp. Adopted
			Expires 5-15-88
	.0201-.0202		Temp. Adopted
			Expires 5-15-88
	.0301-.0302		Temp. Adopted
			Expires 5-15-88
	.0401-.0404		Temp. Adopted
			Expires 5-15-88
	.0501-.0503		Temp. Adopted
			Expires 5-15-88
	.0601		Temp. Adopted
			Expires 5-15-88
	1J .0101-.0102		Temp. Adopted
			Expires 5-15-88
	.0201		Temp. Adopted
			Expires 5-15-88
	.0301		Temp. Adopted
			Expires 5-15-88
<u>GOVERNOR'S OFFICE</u>			
9	NCAC 2 Executive Order Number 57		
	Eff. 11-23-87		
<u>DEPARTMENT OF HUMAN RESOURCES</u>			
10	NCAC 3G .3301-.3342		Adopted
	7A .0208		Amended
	7B .0211		Amended

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**LIST OF RULES AFFECTED**

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	.0330	Amended
	.0335	Amended
7F	.0107	Amended
10B	.0732	Amended
	.0801	Amended
	.0901	Amended
	.0925	Amended
	.0927	Amended
	.1109	Amended
	.1114	Amended
	.1116	Amended
	.1119	Amended
	.1205	Amended
10D	.0903	Amended
10F	.0029	Amended
	.0032-.0033	Amended
	.0039	Amended
	.0041	Amended
12	.0239	Amended
14C	.1145	Amended
14E	.0101	Repealed
14F	.0101-.0110	Repealed
	.0201-.0202	Repealed
	.0301-.0305	Repealed
	.0401-.0405	Repealed
	.0501-.0507	Repealed
26B	.0201	Amended
	.0207	Amended
26H	.0303	Amended
45H	.0202-.0206	Amended
45G	.0308	Amended

**DEPARTMENT OF JUSTICE**

12	NCAC	7D	.0102	Amended
			.0401	Amended
			.0503	Amended
		9B	.0108-.0109	Amended
			.0110-.0114	Amended
			.0202	Amended
			.0207	Amended
			.0217	Amended
			.0302	Amended
			.0304-.0305	Amended
			.0309-.0310	Amended
			.0408-.0409	Amended
		9C	.0308	Amended
			.0403	Amended
			.0601	Amended
			.0604	Amended
		9D	.0202	Amended

**DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY**

14A	NCAC	11	.0501-.0506	Temp. Adopted Expires 5-13-88
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*LIST OF RULES AFFECTED*

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DEPARTMENT OF NATURAL RESOURCES AND COMMUNITY DEVELOPMENT

15	NCAC	3A	.0004-.0005	Amended
		3B	.0103	Amended
			.0105	Amended
			.0107-.0108	Amended
			.0111	Amended
			.0114-.0115	Amended
			.0305-.0306	Amended
			.0308	Amended
			.0402	Amended
			.0503-.0504	Amended
			.0702	Amended
			.0801-.0802	Amended
			.0902-.0903	Amended
			.0906	Amended
			.1002	Amended
			.1004	Amended
			.1101-.1103	Amended
			.1106-.1107	Amended
			.1111	Amended
			.1406	Amended
			.1501	Amended
		3C	.0203	Amended
			.0206	Amended
		711	.1102	Amended
			.1104-.1105	Amended
			.1501-.1502	Amended
			.1504-.1505	Amended
			.1801-.1805	Adopted
		10B	.0115	Amended
			.0121	Adopted
		10D	.0002-.0003	Amended
		10F	.0339	Amended

OFFICE OF STATE TREASURER

20	NCAC	1G	.0504-.0507	Amended
			.0508	Adopted

BOARD OF CERTIFIED PUBLIC ACCOUNTANT EXAMINERS

21	NCAC	8B	.0508	Adopted
		8F	.0107	Amended
			.0110	Adopted
			.0305	Amended
		811	.0004	Adopted

BOARD OF NURSING HOME ADMINISTRATORS

21	NCAC	37	.0519	Amended
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REAL ESTATE LICENSING BOARD

21	NCAC	58A	.1301-.1302	Amended
			.1308	Amended
			.1313	Amended
			.1317	Amended



*LIST OF RULES AFFECTED*

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BOARD OF REFRIGERATION EXAMINERS

21	NCAC 60	.0101	Amended
		.1102-.1103	Amended

OFFICE OF STATE PERSONNEL

25	NCAC 1B	.0416-.0417	Adopted
		.0418-.0420	Adopted
		.0425-.0426	Adopted
	III	.0611	Adopted
		.0614	Adopted

**TITLE/MAJOR DIVISIONS OF THE NORTH CAROLINA ADMINISTRATIVE CODE**

<b>TITLE</b>	<b>DEPARTMENT</b>
1	Administration, Department of
2	Agriculture, Department of
3	Auditor, Department of State
4	Commerce, Department of
5	Corrections, Department of
6	Council of State
7	Cultural Resources, Department of
8	Elections, State Board of
9	Governor, Office of the
10	Human Resources, Department of
11	Insurance, Department of
12	Justice, Department of
13	Labor, Department of
14A	Crime Control and Public Safety, Department of
15	Natural Resources and Community Development, Department of
16	Education, Department of
17	Revenue, Department of
18	Secretary of State, Department of
19A	Transportation, Department of
20	Treasurer, Department of State
*21	Occupational Licensing Boards
22	Administrative Procedures
23	Community Colleges, Department of
24	Housing Finance Agency
25	State Personnel, Office of
26	Administrative Hearings, Office of

NOTE: Title 21 contains the chapters of the various occupational licensing boards.

<b>CHAPTER</b>	<b>LICENSING BOARDS</b>
2	Architecture, Board of
4	Auctioneers, Commission for
6	Barber Examiners, Board of
8	Certified Public Accountant Examiners, Board of
10	Chiropractic Examiners, Board of
12	Contractors, Licensing Board for
14	Cosmetic Art Examiners, Board of
16	Dental Examiners, Board of
18	Electrical Contractors, Board of Examiners of
20	Foresters, Board of Registration for
21	Geologists, Board of
22	Hearing Aid Dealers and Fitters Board
26	Landscape Architects, Licensing Board of
28	Landscape Contractors, Registration Board of
31	Marital & Family Therapy Certification Board
32	Medical Examiners, Board of
33	Midwifery Joint Committee
34	Mortuary Science, Board of
36	Nursing, Board of
37	Nursing Home Administrators, Board of
38	Occupational Therapists, Board of
40	Opticians, Board of
42	Optometry, Board of Examiners in

44	Osteopathic Examination and Registration, Board of
46	Pharmacy, Board of
48	Physical Therapy, Examining Committee of
50	Plumbing and Heating Contractors, Board of
52	Podiatry Examiners, Board of
53	Practicing Counselors, Board of
54	Practicing Psychologists, Board of
56	Professional Engineers and Land Surveyors, Board of
58	Real Estate Commission
60	Refrigeration Examiners, Board of
62	Sanitarian Examiners, Board of
63	Social Work, Certification Board for
64	Speech and Language Pathologists and Audiologists, Board of Examiners of
66	Veterinary Medical Board



*CUMULATIVE INDEX*  
*(April 1987 - March 1988)*

1987 - 1988

Pages	Issue
1 - 137 . . . . .	1 - April
138 - 169 . . . . .	2 - May
170 - 198 . . . . .	3 - June
199 - 285 . . . . .	4 - July
286 - 364 . . . . .	5 - August
365 - 417 . . . . .	6 - September
418 - 487 . . . . .	7 - October
488 - 544 . . . . .	8 - November
545 - 643 . . . . .	9 - December

- AO - Administrative Order
- AG - Attorney General's Opinions
- C - Correction
- E - Errata
- EO - Executive Order
- FDL - Final Decision Letters
- FR - Final Rule
- GS - General Statute
- JO - Judicial Orders or Decision
- LRA - List of Rules Affected
- M - Miscellaneous
- NP - Notice of Petitions
- PR - Proposed Rule
- SO - Statements of Organization
- TR - Temporary Rule

**ADMINISTRATION**

Auxiliary Services, 203 PR  
 Departmental Rules, 429 PR  
 Property and Construction, 388 PR  
 State Construction, 388 PR  
 State Employees Combined Campaign, 13 PR, 334 PR

**ADMINISTRATIVE HEARINGS**

Hearings Division, 408 PR

**AGRICULTURE**

Food and Drug Protection Division, 204 PR, 429 PR  
 Markets, 206 PR  
 N. C. State Fair, 205 PR  
 Pesticide Board, 13 PR  
 Standards Division, 206 PR  
 Structural Pest Control, 205 PR, 393 PR, 492 PR  
 Veterinary, 209 PR

**COMMERCE**

Cemetery Commission, 429 PR  
Credit Union Division, 334 PR  
Departmental Rules, 14 PR, 143 PR, 551 PR  
Savings & Loan Division, 147 PR  
Seafood Industrial Park Authority, 430 PR

**COMMUNITY COLLEGES**

Community Colleges, 270 PR

**CORRECTION**

Division of Prisons, 105 FR, 190 FR, 275 FR  
Parole Commission, 106 FR

**CRIME CONTROL AND PUBLIC SAFETY**

Governor's Crime Commission, 565 PR  
State Highway Patrol, 159 PR  
Victim and Justice Services, 342 PR, 570 PR

**EXECUTIVE ORDERS**

Executive Orders	34 - 42,	1	EO
	43 - 46,	138	EO
	47 - 49,	171	EO
		50, 199	EO
	51 - 53,	288	EO
		54, 384	EO
	55 - 56,	418	EO
		57, 545	EO

**FINAL DECISION LETTERS**

Voting Rights Act, 10 FDL, 141 FDL, 200 FDL, 291 FDL, 385 FDL, 489 FDL, 547 FDL

**GENERAL STATUTES**

Chapter 7A, 382 GS  
Chapter 143B, 286 GS  
Chapter 150B, 366 GS

**HUMAN RESOURCES**

AFDC, 156 PR  
Commission of Anatomy, 441 PR  
Departmental Rules, 492 PR  
Drug Commission, 530 FR  
Facility Services, 174 PR, 211 PR, 393 PR  
Family Services, 152 PR  
Health Services, 237 PR, 432 PR, 494 PR  
Individual and Family Support, 153 PR  
Medical Assistance, 149 PR, 174 PR, 248 PR, 339 PR, 396 PR, 443 PR, 506 PR  
Mental Health, Mental Retardation  
and Substance Abuse, 15 PR, 247 PR, 337 PR, 442 PR, 557 PR  
Notice, 170 C, 488 C  
Social Services Commission, 397 PR  
Vocational Rehabilitation Services, 559 PR

**INDEPENDENT AGENCIES**

Housing Finance, 355 PR

**INSURANCE**

Life Accident & Health Division, 17 PR  
Special Services Division, 564 PR

**JUDICIAL ORDERS**

Martin v. Melott, 420 JO

**JUSTICE**

Education and Training Standards, 19 PR  
N.C. Alarm Systems, 341 PR  
Private Protective Services, 249 PR

**LICENSING BOARDS**

CPA, 269 PR, 351 PR, 516 PR  
Chiropractic Examiners, 178 PR  
Cosmetic Art Examiners, 593 PR  
Dental Examiners, 461 PR  
Electrical Contractors, 612 PR  
Geologists, 524 PR  
Medical Examiners, 95 PR, 403 PR, 613 PR  
Mortuary Science, 404 PR  
Nursing, Board of, 627 PR  
Nursing Home Administrators, 182 PR  
Opticians, 404 PR  
Real Estate, 352 PR  
Refrigeration Examiners, 526 PR

**LIST OF RULES AFFECTED**

Volume 12, No. 1  
(April 1, 1987), 131 LRA  
Volume 12, No. 2  
(May 1, 1987), 163 LRA  
Volume 12, No. 3  
(June 1, 1987), 193 LRA  
Volume 12, No. 4  
(July 1, 1987), 277 LRA  
Volume 12, No. 5  
(August 1, 1987), 358 LRA  
Volume 12, No. 6  
(September 1, 1987), 411 LRA  
October 1, 1987, 479 LRA  
November 1, 1987, 537 LRA  
December 1, 1987, 634 LRA

**NATURAL RESOURCES AND COMMUNITY DEVELOPMENT**

Coastal Management, 94 PR, 160 PR, 259 PR, 347 PR, 365 C, 401 PR, 445 PR, 510 PR, 573 PR  
Community Assistance, 511 PR  
Economic Opportunity, 161 PR  
Environmental Management, 29 PR, 249 PR, 346 PR, 506 PR, 572 PR  
Marine Fisheries, 84 PR, 255 PR  
Wildlife Resources and Water Safety, 175 PR, 268 PR, 446 PR, 575 PR

**PUBLIC EDUCATION**

Elementary and Secondary, 348 PR

**REVENUE**

Corporate Income Franchise Tax, 470 FR, 632 FR  
Individual Income Tax, 107 FR  
Motor Fuels Tax, 108 FR

**STATE PERSONNEL**

Employee Benefits, 183 PR, 408 PR



Office of State Personnel, 96 PR, 465 PR

**STATE TREASURER**

Departmental Rules, 161 PR

Educational Facilities Finance Agency, 349 PR, 475 FR

Investment Program, 177 PR

**STATEMENTS OF ORGANIZATION**

Statements of Organization, 295 SO

**TRANSPORTATION**

Division of Highways, 410 FR, 471 FR

Motor Vehicles, 109 FR, 632 FR

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